THE

TRIAL

OF

JAMES GILLHAM,

AN ATTORNEY,

FOR

DEMANDING AND RECEIVING OF LORD FALKLAND, HENRY SPEED, Esq. AND D. BROUGHTON, Esq. THE SUM OF THREE HUNDRED TWENTY-TWO POUNDS, TEN SHILLINGS, FOR PROCURING THEM THE LOAN OF TWO THOUSAND FOUR HUNDRED AND FIFTY POUNDS, CONTRARY TO AN ACT PASSED IN THE SEVENTEENTH YEAR OF HIS PRESENT MAJESTY.

TRIED IN THE

COURT OF KING's BENCH, WESTMINSTER,

On the 20th of February, 1795.

BEFORE LORD KENYON,

AND

A SPECIAL JURY.

AS TAKEN IN SHORT HAND,

By MANOAH SIBLEY,

Short Hand Writer to the City of London.

LONDON:

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Price Two Shillings and Sixpence.

It is remarkable that this trial was published by and at the expence of Mr King (by whom this copy was given to me) purposely to convince the world what an innocent man he was. T.H.

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COURT OF KING'S BENCH,

The KING *againſt* JAMES GILLHAM,

Tried at Weſtminſter-Hall before Lord KENYON, and a SPECIAL JURY, on the 20th of Feb. 1795.

THE Witneſſes on both ſides being put out of Court, Mr. RAINE, as Counſel on the part of the Proſecution, ſtated the Indictment againſt the Defendant, *James Gillham*, to be for, "That after the paſſing of an Act, "made in the 17th year of his preſent Majeſty, 'for re-'giſtering Grants of Life Annuities,' on the 1ſt of Fe-"bruary, 1792, *Gillham* did unlawfully aſk, demand, ac-"cept, and receive from Lord *Falkland*, *Henry Speed*, and "*D. Broughton*, the ſum of 322l. 10s. as a reward for "the ſoliciting and procuring the loan, and for the broker-"age of 2450l. advanced and paid by *Stephen Phillips* to "Lord *Falkland*, *Speed*, and *Broughton*, for the price and "conſideration of divers Annuities, or yearly Rent Charges,

" amounting to 350 pounds, viz. One Annnity of 125l. " payable by Lord *Falkland*, *Speed* and *Broughton*, to " ſaid *Stephen Phillips*, his Executors, Adminiſtrators, " and Aſſigns, for the lives of Lord *Falkland* and the ſaid " *Stephen Phillips*, and for the life of the longer liver of " them. Another Annuity of 125l. payable by the ſame par- " ties to the ſaid *Stephen Phillips*, his Executors, Admini- " ſtrators and Aſſigns, for the life of *Iſet* the wife of *Phillips*, " and *Sarah Phillips*, his niece, and the life of the longer " liver of them. Another Annuity of 100l. payable by " the ſame parties unto *Stephen Phillips*, his Executors, " Adminiſtrators and Aſſigns, for the lives of himſelf and " wife, and the life of the longer liver of them. Which " ſum of 322l. 10s. for the loan and brokerage of 2350l. " exceeded 10s. for every 100l. paid contra to the " ſtatute.."

There is a ſecond Count, " laying the money advanced " and paid to be advanced by the Defendant, *Gillham*, as " the agent of *Stephen Phillips*."

There is a 3d Count, " charging the Defendant with re- " ceiving 110l. 8s. 4d. for ſoliciting and procuring the " loan, and for the brokerage of 875l. advanced and paid " by the ſaid *Stephen Phillips* to the ſame parties, as the " price and conſideration of an annuity of 125l. a year, " payable by Lord *Falkland*, *Speed* and *Broughton*, to the " ſaid *Stephen Phillips*, his Executors, Adminiſtrators and " Aſſigns, for the lives of Lord *Falkland* and the ſaid " *Phillips*, and the life of the longer liver of them."

There is alſo a 4th Count, " laying the laſt mentioned " money to be advanced by *Gillham*, as the agent of " *Phillips*."

To which indictment the Defendant pleaded Not Guilty.

Mr.

Mr. FIELDING opened the caſe for the Proſecution as follows:

" May it pleaſe your Lordſhip.

" Gentlemen of the Jury, I venture to perſuade myſelf, from what has already come to my knowledge, that you will heartily give your minds, without any reluctance, to a diligent inveſtigation of this cauſe, and more eſpecially when I inform you, that this Act of Parliament paſſed in the 17th of his Majeſty's reign, and was made for the expreſs purpoſe of preventing thoſe pernicious effects that at that time had gone on to a great length, young men granting annuities, and the moſt uſurious terms being taken by the people who purchaſed thoſe annuities; and this Act of Parliament was paſſed, if poſſible to prevent that growing evil, and which made it penal for any man, who engaged in any poſſible manner in procuring the loan of ſuch money, to take for ſuch procuring more than ten ſhillings in a 100l.

I am ſure you muſt, in the courſe of your life, know that, on all theſe occaſions, there is a certain middle man going between the monied man and the borrower; that that middle man is frequently an Attorney, or it may be a man of another character: but it is eſpecially on that character of the middle man that the act of parliament was meant to operate, becauſe it was well known that without the intervention of ſuch middle man as this, theſe kind of tranſactions could hardly ever take place:

Therefore, Gentlemen, this proſecution is againſt a middle man of that deſcription, who having ſolicited the loan for theſe neceſſitous gentlemen who engaged in theſe annuities, has demanded, on that occaſion, where the ſum

of 2450 pounds were advanced, infinitely beyond that ſum which is allowed by act of parliament.

Gentlemen, you will perceive here, therefore, the caſe is pointed, and that I have very little to do with the real principal who advances this money; or whatever the motives of that gentleman were, who advanced the money, I have nothing to do with, inaſmuch as the object pointed at here is the ſolicitor of the negociation, that middle man, who in this cauſe is Mr. James Gillham.

Gentlemen, if I were inclined to enlarge on the advantages of ſuch an act of parliament, I might make many obſervations that would at once ſtrike your mind with conviction, but I am ſure that, with gentlemen of your reſpectability, I may well ſave that time, becauſe you all muſt well know the benefits that ſuch an act of parliament muſt produce.

Gentlemen, the indictment, on this occaſion, charges Mr. James Gillham with this offence, that he, in conſequence of having ſolicited the loan of 2450 pounds, to be advanced to three gentlemen on three different annuities, he has taken of them, not according to the ſum allowed by act of parliament, but exceeding the act of parliament beyond all poſſible bounds, the ſum he has taken amounts in the whole to 322l. 10s.

Gentlemen, when I come to ſtate the particular circumſtances of the tranſaction, I have no doubt but that very different feelings will be called up in your mind: you will advert with indignation to many parts of the tranſaction; and ſure I am a fellow feeling, a very conſiderable degree of compaſſion will take place in your mind; at the ſame time, when you have gone through that courſe of feeling, if the evidence I ſhall be able to lay before you ſhall lead

your

your minds to a fair concluſion, without difficulty, that the perſon now before you is guilty of the miſdemeanor aſcribed to him, you will rejoice that ſuch an object can be made a public example of.

Gentlemen, the parties engaged in this buſineſs are the Right Honourable Lord Falkland, Mr. Delves Broughton, a gentleman of very conſiderable reſpectability, and who, I believe, at this moment has been obliged to flee from his country by being engaged in this tranſaction, and a third perſon, a Mr. Speed, the Member of Parliament for Huntingdon.

Gentlemen, theſe young men, whoſe imprudence can only exerciſe a degree of compaſſion in your minds; imprudent they have been in the extreme, and many conſequences have been attached to that imprudence that certainly are deſerving reprehenſion. But let me ſay thus much in this ſtage of the cauſe, this is a proſecution avowedly eſtabliſhed for the ends of public juſtice, whoever are the proſecutors, whatever indiſcretion might attach to them; nay, I may go much further and ſay, whatever criminality might attach to a proſecutor. When a proſecution of this nature is eſtabliſhed in a Court of Juſtice, the ſimple and plain wiſh in the buſineſs is that the beneficial end of Juſtice ſhall be obtained.

Gentlemen, I confeſs for myſelf I feel the efficacy of a proſecution of this ſort, if it be properly ſuſtained and properly conducted. In feeling that, I cannot but feel myſelf a little unhappy in the very ſituation in which I now ſtand, for I do promiſe you that I would not have accepted of an employ in a buſineſs of this ſort, ſo important to the public, if it had not been, when I firſt became engaged, that I thought I ſhould have had the aſſiſtance of

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my honourable and learned friends here (Erſkine and Garrow) men whoſe abilities are ſo well known and ſucceſsful to promote a proſecution to a beneficial purpoſe; they would have been much more likely to do it than myſelf; and when the obſervations had come from them, I ſay without any ſort of flattery to them, that their obſervations would have been much better calculated to advance the public utility than any I can make. In conſequence of the profeſſional ſituation of thoſe gentlemen, and in conſequence of a retainer having got to the hands of their Clerks, theſe two hononrable and able men ſtand out of the preſent buſineſs, inſtead of addreſſing you on the preſent occaſion, and what I did wiſh ſhould have fallen to the ſhare of Mr. Erſkine: But ſure I am that on an occaſion of this ſort all the ends of public juſtice will be at once promoted by the attention of the noble lord; ſure I am that you will feel yourſelves called to conſider an important caſe, and that you will attend to the circumſtances of the evidence, forgiving me if I treſpaſs on your time a little; I am ſure you will not therefore abate your patience, and I may take the liberty of ſaying this, That whatever ſituation the ingenuity of my learned friends on the other ſide can poſſibly involve any of the witneſſes in, on the part of the proſecution, your enquiry ſimply is into the truth of the tranſaction. If it was poſſible by that very ingenuity being reſorted to that they ſhould be able to bring rebuke on every witneſs that appears before you, and on every other part of the caſe that appears before you, yet all that is nothing to this cauſe which you have now to try, and perhaps I am the moſt ignorant man at the bar either of the circumſtances that have paſt on this occaſion, and

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alſo have not had the good fortune to be engaged in any of thoſe other like cauſes that have been tried here.

Gentlemen, You will have on this occaſion as a principal witneſs Lord Falkland himſelf, he is young and a man whoſe imprudence I am not to apologize for, but I am ſure both in the noble lord's breaſt, and your own, though you ſee there are ſpecies of imprudence which leads youth to a certain extent of extravagance, and which makes it neceſſary to reſort to theſe miſerable thieves that infeſt ſociety, that go between the perſons that give the annuity, and the ſeller and the advancer of the money itſelf. I ſay, though you ſee all that, that is not ſtrictly juſtifiable, yet when you come to ſee it in a fair and conſiderate manner you will not ſuppoſe that that extravagance, thatt hat imprudence is any thing like that which is to impeach their moral character, certainly not.—We have known innumerable inſtances in our own time wherein indiſcretion (if indiſcretion it may be called) has been committed by a youth, when at the ſame time the main fabrick of the conſtitution may be juſt and uncorrupted; they may be men who would ſhudder at doing a diſhonourable thing as well as thoſe that have never been indiſcreet and never been urged from neceſſity to get into ſuch tranſactions.

Gentlemen, it is my duty to lay thus much before you and it will be the duty of my learned friend to make as much as he can of ſuch circumſtances; let me now call your attention to that which is the reſult of the caſe before us.

Gentlemen, the ſum advanced altogether is 2450 pounds, and that ſum wus lent on three annuities granted by the perſons who borrowed the money, an annuity of 125l. a year, another of 125l. a year, and a third of 100l. makiug altogether

altogether the ſum of 350l. a ſum therefore which if the 2450l. had been advanced in the common way in which tranſactions of this ſort take place, would have exceeded a little the common terms on which annuities are granted.

The common way on which young thoughtleſs men are engaged to grant annuities is this, they grant the annuity for their own lives and that at the rate of ſix years purchaſe, you will eaſily ſee therefore that the ſum of 350l. to the ſum of 2450l. a little exceeds that and comes near to ſeven years purchaſe. But Gentlemen, you will be aſtoniſhed, when I ſtate to you that theſe annuities inſtead of being granted in that way alone, you will be aſtoniſhed when I tell you my Lord Falkland, Mr. Broughton, and Mr. Speed were to grant them, not for their own lives, that each one of the annuities ſhould be all granted jointly, not for their lives but for the life of the purchaſer of the annuity, a thing hardly ever known before, a thing hardly ever known before that it was granted at leſs than 12 or 14 years purchaſe, for one of the annuities of 125l. as well as taking in the life of the granter, took in the wife and niece of this purchaſer of the annuity, ſo the ſecond and third goes on in the ſame way.

Gentlemen, I have taken the liberty of hinting this to you at preſent, becauſe in the courſe of this buſineſs, I am ſure you will hear that there is now depending an indictment of a moſt ſerious nature to theſe young men which I have taken the liberty of mentioning to you.

Lord Falkland, and others ſtand indicted for a conſpiracy on this very ground, in order to obtain this 2450l. on theſe annuities. There is alſo other indictments againſt them, one againſt that unhappy nobleman for perjury, and it is meet that I ſhould interpret that in ſome way or other to you.

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Having, Gentlemen, taken the liberty to mention this, I am ſure the noble Lord will forgive me in ſaying, that what ſtands on the record, muſt in itſelf be conceived the moſt abominable impudence that ever urged men to inſtitute ſuch a wicked proſecution.

Could it have been unknown to the man, Gillham, that my Lord Falkland, Mr. Speed, and Mr. Delves Broughton, were not poſſeſſed of ſuch eſtates as to bring in ſuch ſecurity. It was impoſſible he could approach them with the audacity, in this buſineſs, if he knew they were poſſeſſed of ſuch ſecurity: for if they had, what was to prevent them from borrowing money by mortgage upon thoſe eſtates, or uſing other expedients by which money is raiſed in this town.

Gentlemen, I am afraid I ſhould tire you if I was to follow the dictates of the feelings of my own heart on this occaſion, I ſhall, therefore, now confine myſelf in ſtating how this charge aroſe againſt Mr. Gillham, and what is the ſimple object of your enquiry.

Gentlemen, It happening on the firſt of February, 1792, that Lord Falkland, having had ſome intercourſe with Mr. King, in conſequence of ſome previous application Mr. King had ſet on foot a negociation, where, in the courſe of its going on, Mr. Gillham, the now Defendant, roſe up as the perſon to tranſact the buſineſs for a Mr. Phillips; he had known the wants of this young Nobleman, and Mr. Broughton, and Mr. Speed; they met at Mr. King's houſe, and, after ſome converſation, it was agreed npon what terms the money was to be advanced: Gillham, the preſent Defendant, arrives there to open the buſineſs as to the propoſal on which the money was to be borrowed and lent. Whatever had been the intercourſe before it is not material

for your preſent conſideration, but on the firſt of February it was propoſed, that theſe three Gentlemen ſhould all be joint ſecurity, in all the annuities, for one another; that every one of theſe three ſhould be joint ſecurities in three annuities, that is, a 125l. a year ſhould be granted by my Lord Falkland, a 125l. to be granted by Mr. Speed, and 100l. by Mr. Broughton, but they were all to join in each annuity. This was the propoſal made by Mr. Gillham. My Lord Falkland ſaid he knew very little of Mr. Speed, and he had ſome objection: Gillham ſaid that he was ſorry that there ſhould be any objection, that the writings were drawn that way, and ſhould not be altered. Now it is not to be ſuppoſed that extravagant young men of faſhion, wanting to raiſe a ſum of money on an annuity, and having the proſpect of touching the caſh, that they ſhould not come into the terms propoſed. It was hinted that Mr. Phillips knew Mr. Speed, and he was ſatisfied he was a man of fortune. My Lord Falkland was eaſily perſuaded into this, that as he was to join with them, they were to join with him, and ſo far the buſineſs was to come to a concluſion. However Mr. King and Mr. Gillham left the room after the firſt converſation had taken place, and after a little converſation amongſt themſelves returned into the room, ſaying what Mr. Gillham expected for ſettling the buſineſs, and, Gentlemen, when you hear what his demand was for ſettling the buſineſs, which was ſo far from being confined within any thing moderate of that rule that is preſcribed by the Act of Parliament, I know that you will be aſtoniſhed at the demand. He ſaid he ſhould expect to have five per cent. commiſſion. Why, Gentlemen, that would have brought him within the Act of Parliament, which ſays, that no more ſhall be taken than 10s

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in the 100l.—five per cent. on his commiſſion would amount on the ſum of 2450l. to 122l. 10s. One would have thought he might have been ſatisfied, and have ſtopped here:—no, beſides this he was to have a 100l. for the writings; there he might have ſtopped—no, he would yet have an 100l. beſides, and if they did not like theſe terms, the buſineſs ſhould not go on; and theſe were the terms to be complied with before this bargain ſhould be ſtruck. Of courſe this exorbitant demand would beget a little heſitation before the terms would be complied with; and ſeeing the buſineſs likely to be broke off at the time they were elated with the thoughts of touching the caſh, they were at laſt induced to come into theſe terms: therefore you perceive it is impoſſible for any man to hear the ſtory, and not ſee the atrociouſneſs of the tranſaction; and it only waits to have it proved, and when it is proved, it is impoſſible that any man of common ſenſe can ſuppreſs his indignation. But, gentlemen, as to your province at this time, it is nothing more than to enquire whether he has been guilty againſt the Act of Parliament, of taking more for his ſhare in this tranſaction than the Act of Parliament preſcribes, that will be all.

I have nothing to prove but this; and although this is the firſt proſecution that has been carried on on this Act of Parliament, yet it is of ſuch a ſimple nature, that I ſhall ſay no more than I have ſaid. I have thought it my duty to ſay thus much, and if poſſible to do ſome good to the parties engaged in this buſineſs. I warn my learned friend of the Evidentia Rei, that which grows out of the thing itſelf, and which therefore will negative thoſe arguments which may poſſibly be attended to defeat this proſecution. Gentlemen having ſaid thus much to you, I ſhall ſay no

more at preſent, but ſhall proceed to call the witneſſes; of courſe there being more than one or two, they will be called in confirmation of one another. You will examine the teſtimony they give, if you ſee about any part of the teſtimony that that will reaſonably induce a doubt in your mind about receiving it, of courſe you will reject it. But, if on the contrary, however a ſpecies of confuſion may be introduced, whatever circumſtances might have gone on before the preſent enquiry to day, I am ſure your minds are fully equal to the inveſtigation; to you we truſt, to your deciſion the public look at preſent: if it ſhould be that this man is properly convicted on proper evidence, I may ſay I am ſure if you are the means of giving up this man to be made an example of, the world is very likely to be benefited by ſuch an example made.

I therefore will call Lord Falkland, and if he appear in his manner, and from the ſtory he tells, deſerving your belief, you will believe it; if it does not, whatever rank a man ſtands in life, and in whatever ſtation in ſociety, if his ſtory is not ſuch as to gain credit from gentlemen of your reſpectability, one may ſigh at his ſituation, but that ſituation I am ſure will be deſerved if you ſhould reject it: bearing all this on your minds, and conſidering what you ſhall do with ſuch a young man's character as that, I am ſure you will deliberate on the teſtimony he gives, and I do flatter myſelf you will believe the ſtory he tells.

HENRY THOMAS Lord Viſcount FALKLAND
Sworn—Examined by Mr. SHEPHERD.

Mr. Mingay.—Your Lordſhip was deſired to go out of Court while the caſe was opened. Did you hear Mr. Fielding's ſpeech? A. I did not.

Mr.

Mr. Shepherd.—Do you know Mr. Gillham, the Defendant in this profecution? A. Yes, I do.

Q. When did you firſt ſee him? A. On the firſt of February, 1792.

Q. At whoſe houſe did you meet him? A. At Mr. King's, in Burlington-ſtreet.

Q. Had you before that time applied to any body to raiſe money by way of annuity? A. I had applied to Mr. King.

Q. Did you go to Mr. King's houſe to meet Mr. Gillham on that buſineſs? A. Mr. King called on me in the morning, and I went with Mr. King there.

Lord Kenyon. You had previouſly applied to Mr. King? A. I had.

Mr. Shepherd. When you went to Mr. King's houſe, did you ſee Mr. Gillham? A. I did.

Q. Who was preſent when you firſt ſaw Mr. Gillham there? A. Mr. King, Mr. Broughton, and Mr. Speed.

Q. What paſſed between you and Mr. King, and Mr. Broughton, and Mr. Speed, and Mr. Gillham? A. It was propoſed that Mr. Broughton, Mr. Speed, and myſelf ſhould join in an annuity together.

Lord Kenyon. In one, or more? A. I dont know that it was particularly ſpecified.

Mr. Shepherd. What money was to be advanced? A. 2450l.

Q. Was it to be advanced to you all three? A. To all three o us.

Q. In what proportions? A. Mr. Broughton was to receive 700l. Mr. Speed and myſelf 825l. each. I dont know that this was particularly ſpecified at that time.

Q. What annuity was each of you to pay the purchaſer?

chaſer? A. Mr. Speed and myſelf were to pay 125l. a year each, and Mr. Broughton a 100l.

Q. I wiſh your lordſhip would endeavour to recollect what money you was to receive—how much was Mr. Broughton was to receive? A. 700l.

Q. How much was you to receive? who was to receive the remainder of the money? A. I ſpoke wrong before, it was 875l each, Mr. Speed and myſelf.

Q. Who was to receive the remainder of the money? A. Mr. Speed and myſelf in equal proportions.

Q. You told us it was propoſed by ſomebody that Mr. Broughton, Mr. Speed, and yourſelf ſhould become joint ſecurities for each other, was any objection made? A. I objected, as I had never known Mr. Speed before, except having ſeen him once or twice.

Q. How often had you ſeen him? A. Once or twice, and that in a large company at Dinner.

Q. Did Mr. Gillham ſay any thing on your making that objection? A. Mr. Gillham ſaid that the writings were drawn in his name, and that he could not do without him.

Q. What elſe paſſed on that objection? A. Reſpecting Mr Speed being part of the ſecurity, Mr. Gillham ſaid that Mr. Phillips had enquired about Mr. Speed and he was ſatisfied with him being one of the ſecurities.

Q. Who was Mr. Phillips?—Who did Mr. Gillham repreſent Mr. Phillips to be?—What had he to do with it? A. I underſtood that he was to be the perſon that was to advance the money.

Q. Mr. Gillham ſaying that, what was done? A. We acquieſced, Mr. Broughton and myſelf, to join with Mr. Speed.

Q. After you had acquieſced, go on to tell us all that paſſed

paſſed? A. Then Mr. King and Mr. Gillham went out of the room, and preſently after Mr. King returned, and ſaid, that a freſh difficulty had aroſe.

Mr. Mingay.—Was Gillham there when King returned? A. No, he was not.

Q. Then we muſt not hear what was ſaid.

Mr. Shepherd.—Who came back firſt, Mr. King or Mr. Gillham? A. Mr. King.

Q. In conſequence of King ſaying any thing did Gillham come back? A. Gillham came back with Mr. King.

Q. When Gillham came back what was ſaid then? A. I don't know how I can tell that without I tell the previous converſation.

Q. Will you endeavour to recollect what King ſaid when Gillham came back? A. That I do not preciſely recollect, but I believe Mr. Broughton ſaid to Gillham, what do you expect to have.

Q. What was Mr. Gillham's anſwer to that queſtion? A. We were all men of honour there, and he muſt have 5 per cent. on the whole of the money, a 100l. for the writings, and a 100l. by way of premium or preſent.

Q. What was the word? A. 100l. by way of preſent.

Q. Upon his ſaying that, what reply was made to him by you or any other gentleman? A. Mr. Broughton ſaid that amounted to 322l. 10s.

Q. What ſaid Mr. Gillham, did he acquieſce that it was 322l. 10s? A. I believe he did.

Mr. Mingay. Tell us what he ſaid, not what you believe he did. A. I cannot ſay what he ſaid.

Mr.

Mr. Shepherd. What was done then on Mr. Broughton's ſaying it was 322l. 10s.? A. It was agreed it ſhould be paid, after ſome little conſideration, and he ſhould go home and bring the writings there to be executed.

Q. Do you know who had prepared the writings? A. No, I do not.

Q. Who brought them? A. I believe Mr. Gillham brought them; I cannot be certain of that.

Q. I underſtand you to ſay, that on the agreement of paying that money that Mr. Gillham was to go for the writings. A. He was to go for the writings; the writings were afterwards brought.

Q. When were the writings brought—How ſoon after this agreement? A. Some time afterwards; two or three hours it may be.

Q. Had you ever ſeen any writings before on the ſubject? A. Never. I did not know till that day that the money was to be advanced.

Q. Who were together when the writings were brought? Who were in the room together after they were brought? A. There were ſeveral people there. There was Mr. King, Mr. Gillham, Mr. Broughton, and Mr. Speed, and a perſon whom I underſtood afterwards to be Livingſton. We parted after the morning, we aſſembled and met again there at four o'clock after the firſt meeting.

Q. Then after the firſt meeting you ſeparated, and two or three hours after it was that you met again? A. Yes; about four o'clock.

Q. When theſe writings were brought, and you and Mr. Broughton, Mr. King, Mr. Gillham, and Mr. Livingſton were together, what paſt, were any writings executed? A. Yes; we executed the writings, and there were

were three people came in to witneſs the execution of the writings.

Q. After you had executed ſome writings what paſt, was any money produced? A. The money was produced by Mr. Gillham.

Q. How much? A. Two thouſand four hundred and fifty pounds.

Q. Will you endeavour to recollect whether the ſame people were preſent when the money was produced? A. I cannot exactly recollect whether they were or no.

Q. Was Mr. Speed there? A. Yes.

Q. And Mr. Broughton? A. Yes.

Q. And Mr. Gillham? A. Yes.

Q. Mr. King was there? A. Yes.

Q. Mr. Livingſton was there? A. Yes.

Q. Theſe perſons were there when the money was produced? A. Yes, they were.

Q. Do you recollect whether any other perſons were in the room beſides thoſe that you have mentioned? A. No, I do not.

Q. When the money was produced what was ſaid by Mr. Gillham? A. He deſired to know who the money was to be paid to, and he was deſired to pay it to Mr. Speed, and the money was put down on the table. It was agreed to be paid to Mr. Speed.

Q. When it was laid on the table, what then? A. The money was counted over and laid on the table, and on its being found to be right it was left there, and every body retired out of that room but Mr. Speed, Mr. Broughton, and myſelf.

Q. When every body was retired out of the room but you three, what was done with the money? A. We then proceeded to divide the money among us.

Q. Was any part of it ſeparated from the reſt, and given to any body elſe? A. Mr. Gillham ſaid he would wait, before he went out; he would wait in an adjoining room for what he was to receive.

Q. What did you then do with the money when Mr. Gillham was gone to the adjoining room? A. We divided it.

Q. Was any part of it left or given to any body? A. Mr. King came into the room.

Q. What was done when Mr. King came into the room? A. He ſaid that Mr. Gillham could not wait.

Q. What did you do in the room? A. I collected of Mr. Broughton and Mr. Speed their ſhares of 322l. 10s. that they were to pay Mr. Gillham, Mr. King marked it down, calculated our ſhares, and I collected of them and added my own ſhare.

Q. What was done with that money? A. I took it into the adjoining room

Q. What was it in conſequence of that you collected this money of Speed and Mr. Broughton? A. In conſequence of that agreement we made to pay Mr. Gillham that ſum.

Q. When you had ſo collected their ſhares and added your own, what did you do with it? A. I went into the adjoining room, where Mr. King, Mr. Gillham, and Mr. Livingſton were, and paid it into Mr. Gillham's hands.

Q. He took it of you? A. He did.

Q. Did he ſay any thing? A. He looked at it and thanked me, and ſaid it was right.

Q. Did any thing elſe paſs about the money? A. Mr. Livingſton ſaid I ought to be very generous, and Mr. Gillham

ham had brought with him a little boy, and I ought to give him five guineas, which I did.

Q. Do you recollect exactly for whoſe lives the annuities were to be granted? A. I did not know at the time, I have heard ſince.

Mr. Mingay.—The deeds themſelves will ſpeak for that.

Mr. Shepherd.—Can you recollect for whoſe lives the annuities were to be granted? A. I cannot exactly.

Q. Then never mind.

Mr. Mingay.—You had applied to Mr. King to get money for you? A. Yes I had.

Q. You ſwear that you had not before that tranſaction known Mr. Speed, but that you had only ſeen him once or twice in a mixed and large company? A. I do.

Q. You have ſworn that the writings were brought at firſt I believe by Mr. Gilham; were they brought firſt by Mr. Gillham when he firſt came, or did he go home for them? A. I don't know that he went home but he went out of the room for them.

Q. Had you never ſeen the writings before the time you executed them? A. Never.

Q. Pray my lord when this diviſion of the money took place, Mr. Gillham had left 2450l. be ſo good as to ſtate what he brought it in? A. Bank notes, and part in caſh.

Q. How much caſh? A. I cannot exactly ſay whereabout.

Q. Was it 10l. or 20l.? A. I cannot ſay.

Q. Will you ſwear it was more than 10l. becauſe you ſaw the money counted you ſaid? A. I ſaw money counted.

Q. About how much caſh? A. I cannot ſay.

Q. I believe at the time the money was advanced what it conſiſted of was put on this paper, and you have put your Lordſhip's name on it. Look and ſee if that is your hand writing? A. It is.

Q. Is that Mr. Broughton's? A. It is.

Q. Mr. Gillham propoſed that he was to have five per cent. for his trouble, for procuring the money, 100l. for the writings, and a 100l. for a preſent? A. He did, that was his agreement.

Mr. Mingay to the Court. I might now take your Lordſhip's opinion whether the defendant muſt not be acquitted on this record, the averment of the indictment being not that he took any of this money for writings, but that he took the whole for ſoliciting and procuring the loan of this 2450l.

Lord Kenyon. I was aware that that objection would be made, and I had prepared my mind not to receive it: I think it muſt be left on the whole to the Jury.

Mr. Mingay to Lord Falkland. After the money had been paid, you ſay you divided the money between yourſelves; how much did you take for your ſhare—your ſhare was 875l.? A. Yes, I took that ſum.

Q. Did Mr. Broughton take his 700l. A. Yes, Mr. Broughton took his 700l. but I was indebted ſomething to Mr. Broughton, which I paid him; I paid him 300'. I was indebted to him.

Q. Now attend—now mind—when you firſt divided the money, in what proportions did you divide it, and how:—did you take it at firſt? A. I did not divide it till I ſettled it with Mr. Broughton; and in order to enable us to divide the money, Mr. King took ſome bank notes out of his own drawer to change one of the notes.

Q. Your

Q. Your ſhare was 875l? A. It was.

Q. The ſhare of Mr. Speed was another 875l.? A. It was.

Q. And Mr. Broughton 700l.? A. It was.

Q. Now be ſo good to tell us in what manner you collected the portions of Mr. Broughton and Speed in caſh and bills to make up the 322l. 10s. A. Part in caſh, and the greateſt part in bank notes.

Q. And you mean to ſwear that you carried 322l. 10s. in bank notes and money, and paid it to Mr. Gillham in the adjoining room, and he took it? A. He did.

Q. You ſwear that he took it? A. I do.

Q. Did any converſation take place between you and Mr. Gillham reſpecting any joining in the granting of theſe annuities at that time? A. It was in the morning the converſation took place.

Q. Who was preſent at that converſation? A. Mr. King, Mr. Speed, Mr. Broughton, Mr. Gillham, and myſelf.

Q. I believe there were at the time two perſons, one, or both of them clerks to Mr. Gillham, were they not? A. They were not in the room when the converſation took place.

Q. No converſation took place while the clerks were there? A. Not in regard to our joining in the annuities.

Q. Do you mean to ſwear that you objected joining with Mr. Speed? A. I did, and I did not know that I was to join him till then.

Q. Did Mr. Gillham tell you, or did he aſſert that he knew Mr. Speed to be a man of property? A. He ſaid ſomething to that effect; he ſaid that Mr. Speed's name was in the writings; and that Mr. Phillips knew Mr. Speed;

Speed; he had made ſome enquiry about Mr. Speed, and he knew he was a man of fortune.

Q. Now at the time that Mr. King ſtated that a freſh difficulty had aroſe, who were in the room at that time; name every body? A. There was Mr. King, Mr. Speed, Mr. Broughton, and myſelf.

Q. Were there no other perſon? A. No.

Q. Were no clerks of Mr. Gillham's there? A. There were none.

Q. I am deſired to aſk you this, whether you have not admitted that you never ſaw Mr. Gillham in your life till he came into the room to have you execute the writings? A. No, I do not recollect it. I may have admitted that I never ſaw Mr. Gillham till the firſt time in the morning I ſaw him at Mr. King's houſe.

Q. Upon your oath, did not you laſt November admit that you never ſaw Mr. Gillham in your life till he came for you to execute the writings—you unnderſtand the queſtion.—Have you not admitted that you never ſaw Gillham till he brought the writings, and came there with them for the execution of them? A. I never ſaw Mr. Gillham till the day I called at Mr. King's.

Q. Will you ſwear that you have not admitted that you never ſaw Mr. Gillham till he came with the writings at the moment they were to be executed, till that inſtant in which he came with them. A. You ſhould conſider that when I came there in the morning I went to execute the writings.

Q. I thought you ſaid that you did not expect the money to be paid that day? A. I did not know that the money was to be advanced on an annuity.

Q. Then how did you expect the writings to be executed?

outed? A. Mr. King came and told me that I muſt come to his houſe. Mr. Gillham was there, and I was to receive money on an annuity, and that was the firſt time I heard of the annuity.

Q. Did you not ſay that you had not ſeen him till he came with the bag of writings with him? A. I don't know that ever I did.

Q. In ſhort, I mean to put this to you, Do you mean to ſwear that Mr. Gillham came once, then went home and fetched his writings, and came a ſecond time? A. Mr. Gillham came once and went out of the room; whether he went home I don't know.

Q. Is this the affidavit that you have ſworn? (an affidavit ſhewn to the witneſs.)

Mr. Shepherd objected to the reading of the affidavit, but it was allowed by the Court, and part of the affidavit was read by Mr. Mingay.

Mr. Mingay—Did your Lordſhip ever ſwear to this effect, *That* you, Lord Falkland, did agree to ſign the deed and accept the money, and ſhortly after that James Gillham was informed thereof, and that it was agreed he ſhould have the ſum of 3321. 10s. and that he would wait in another room. Did you ever ſtate that it was one tranſaction and not two tranſactions? A. I do not conceive that it was two tranſactions; we met Mr. Gillham in the morning, and we agreed to meet again, and he was to bring the writings in the afternoon; he came with the writings, the writings were executed, and he retired into another room.

Q. What was the property that was to be a ſecurity to Mr. Phillips for this 2,450l.? A. I underſtood it was to be perſonal ſecurity, from the price that was given for the annuity.

Q. Do

Q. Do you mean to ſay that no repreſentation was made reſpecting an eſtate in the Iſle of Thanet? A. I made no ſuch repreſentation.

Q. Nor any body to your knowledge? A. Nor any body to my knowledge.

Q. In ſhort, the affidavit will be read, and whether you ſwear now as you did before, we ſhall ſee.

Q. Theſe annuities were granted in 1792? A. They were.

Q. How much has been paid of it from that time to this? A. I cannot exactly ſay.

Q. Do you mean to ſay that any thing has been paid? A. I believe Mr. Phillips has ſeized on the effects of Mr. Broughton, and the effects of Mr. Speed; and the money that I have paid, I fancy there has been about a year and a half paid.

Q. You mean to ſwear that no repreſentation was made on the ſubject of the eſtate in the Iſle of Thanet? A. There was none on my part.

Q. How came that to be in the deed? A. I cannot tell.

Q. What is Mr. Phillips pray? A. I have ſince underſtood that Mr. Phillips is a Coal Merchant, living in Holborn.

Q. Do you know him, or he you? A. I don't know Mr. Phillips.

Q. Do you know whether he knew Mr. Broughton? A. I don't know.

Q. Did he advance 2,450l. out of his pocket on your, and Mr. Broughton, and Mr. Speed's perſonal ſecurity? A. I underſtood it ſo.

Q. Then according to that you had no talk about your eſtate, as is mentioned in the deed, which you will ſee by and by? A. I had not.

Q. Do

Q. Do you mean to ſwear that when the deeds were executed by you that you did not know the contents of them? A. I do.

Q. Do you know at all how it was that Mr. Phillips, or his attorney, inſerted this eſtate in the Iſle of Thanet in the ſecurity, of whom they received it, of whom it was that this eſtate got into the deeds? A Nobody had any authority from me to repreſent ſuch a thing at all.

Q Have you an eſtate in the Iſle of Thanet? A. I have not.

Q. Then whoever repreſented to Mr. Phillips that they were to have this eſtate in the Iſle of Thanet as a ſecurity, repreſented a falſity? A. Certainly.

Q. If he lent money on that ſecurity, he was impoſed upon? A. Certainly.

Q. Now, my lord, who was in the room at the time Mr. Gillham received the money, the 322l. 10s.? A. There were Mr. King, Mr. Livingſton and myſelf.

Q. What were become of Mr. Gillham's two clerks? A. They went out of the room with the others. I dont know what become of them.

Q. Then according to your account, theſe perſons that you have named were the only perſons that remained in the room after you divided the money, collected the 322l. 10s. and when you carried it to Mr. Gillham? A. Yes.

Q. What became of the two clerks that were witneſſes of the execution? A. I cannot ſay.

Q. Were they not in the room? A. They were not in the room at the time Mr. Broughton, and Mr. Speed, and me were alone.

Q. Do you mean to ſwear that they were not in the

room at the time you paid Mr. Gillham the money? A. They were not.

Q. Did Mr. Speed give Mr. Gillham any thing? A. Not to my knowledge.

Q. I mean did not Mr. Speed deliver over whatever was given to Mr. Gillham himſelf? A. He did not.

Q. Then all the money was given by you in the manner you have ſtated? will your lordſhip be ſo good as to tell us how the money was made up? A. That I cannot tell, I did not think it would come to ſuch an inveſtigation as this, I only know that I paid in the whole, that ſum of 322l. 10s.

Q. You delivered it to the hands of Mr. Gillham? A. I did.

Q. You have ſworn that ſo often, that the jury muſt determine it? where did you give him the money? A. It was not in the room where the deeds were executed, but in an adjoining room.

Q. In the adjoining room into which you went after the deeds were executed, were there not two clerks of Mr. Gillham's there, This lad that will called in by and by, and another? A. There were not.

Q. How ſoon after the deeds were executed was the money given to Gillham? A. Mr. Gillham and Mr. King left us directly it was put down, and then preſently Mr. King came into the room and ſaid Mr. Gillham could not wait any longer.

Q. What did they do with the deeds? A. They took the deeds and went out of the room.

Q. I wiſh you would tell us where the two young men went? A. I cannot ſay.

Q. Do

Q. Do you mean to ſwear that you gave this little boy five guineas? A. I did.

Q. Had you promiſed to give him a ſeal? A. I do not recollect.

Q. Will you ſwear that you had not? A. I cannot recollect whether I had or no.

Q. Did Mr. King promiſe to give this lad a ſeal to his watch in conſequence of his having the trouble of coming ſo often? A. I don't know that, I gave him five guineas.

Q. Was there any thing ſaid about this ſeal at the time theſe five guineas were given? A. I do not recollect.

Q. I wiſh your lordſhip would have the goodneſs to recollect; was it not ſaid that you or Mr. King, or ſome of the party, having agreed to give this boy a ſeal, and no perſon being provided with one for the purpoſe, you gave him two guineas and not five? A. I perfectly recollect I gave the boy five guineas.

Q. What age boy was this? A. He appeared to be a little boy.

Q. About ſixteen or ſeventeen? A. Nothing like that.

Q. You call it a child in your affidavit? How old did you take him to be, becauſe he is twenty years old now? A. It made an impreſſion on me as a boy of about eight or nine years of age.

Q. Who was the other that was there? A. I did not take any notice of either of theſe people that witneſſed the deeds, I was exceſſive ill at the time.

Q. I think I have got that already,—I think I underſtood your Lordſhip to ſay, to nobody did you repreſent that you had an eſtate in the Iſle of Thanet? A. I ſo far repreſented this to ſeveral people, that I always conſidered

myſelf as having a claim to an eſtate in the Iſle of Thanet.

Q. But you ſaid before that you had not repreſented it as the foundation of any ſecurity on theſe annuities? A. I never did to any body.

Q. You never conſidered it as a ſecurity that you could carry to market to raiſe money on at any time? A. Never at that time.

Q. Never at that time; at any other time? A. No, I never knew it was charged as a ſecurity for theſe annuities.

Q. Did you at any time repreſent it as a ſecurity? A. My father took an opinion of counſel whether my grandfather could ſell that eſtate.

Q. Do you conſider yourſelf as having a right to an eſtate in the Iſle of Thanet? A. I have very often talked of having a right, and think I have a right.

Q. Did you ever talk of it as a ſecurity that you could carry to market? A. Never.

Q. Pray when was this indictment preferred againſt Mr. Gillham: what month was it in? A. I do not recollect what month it was in.

Q. Was it in the laſt September? A. Yes, I think it was.

Q. This tranſaction was in February, 1792, and you preferred your indictment in 1794? A. Yes

Q. Previous to this had not you, Mr. Speed, and Mr. King been indicted, and bills of indictment found againſt you for a conſpiracy? A. Yes, we had.

Q. Had not you alſo been yourſelf indicted, and the bill found againſt you previous to this indictment for perjury? A. No, it was not previous to this.

Q. The

Q. The indictment for a conſpiracy was found againſt you firſt? A. It was.

Q. *Mr. Shepherd.* Were the deeds at all read over or explained to you by any body? A. They were not.

Q. Now my Lord, you have been aſked reſpecting Mr. King's coming into the room and telling you there was another difficulty ſtarted, will you be ſo good as to tell us what Mr. King ſaid, when he came into the room and ſaid another difficulty was ſtarted? A. That was in the morning. Mr. King came in and ſaid that a freſh difficulty had ſtarted, and unleſs Mr. Gillham was to receive ſuch a ſum of money as he named, Mr. Gillham could not conſent to the buſineſs being done, for that his client had left the whole to his diſcretion, or words to that effect.

Q. If I underſtand you, the time you objected to joining Mr. Speed in that ſecurity was in the morning, but there was no objection of that ſort after you parted, and Gillham returned with the deeds. A. None.

Q. Do you recollect in the morning, (I do not mean when the deeds were executed) ſeeing any of Mr. Gillham's clerks at all? A. I do not, I ſhould not know Mr. Gillham's clerks if I was to ſee them.

Q. Do you remember ſeeing any other perſons than thoſe you have mentioned? No.

Mr. Mingay. At what time was it Gillham was there when King ſaid he expected 322l. 10s? A. About eleven or twelve o'clock at noon.

Q. How long did he ſtay there at the firſt time? A. I cannot ſay.

Q. What time were the deeds executed? A. About four or five o'clock in the afternoon.

Mr.

Mr. JOHN KING Sworn—Examined by Mr. FIELDING.

Mr. Gibbs.—How was you ſworn, on the Old or New Teſtament? A. On the New Teſtament.

Mr. Fielding.—Your are acquainted with Lord Falkland? A. Yes.

Q. In conſequence of your acquaintance, and having ſome buſineſs in hand of his, did you ſee him on the firſt of February, 1792? A. Yes.

Q. He came to your houſe in Burlington-ſtreet? A. He did.

Q. Did Mr. Gillham come there on that morning? A. He did.

Q. Were you preſent at any converſation that was held when Mr. Gillham was preſent with my Lord Falkland, Mr. Broughton, and Mr. Speed? A. I was.

Q. Be ſo good to tell my lord and thoſe gentlemen what that converſation was and what the purport of it was? what time of the day do you think it was when Mr. Gillham came with theſe gentlemen to your houſe? A. I think it was about ten or eleven o'clock.

Q. Tell my lord and jury what the converſation was, and the buſineſs that was to be agitated there? A. Mr. Gillham came to inform me that the buſineſs would be done that day, but it was neceſſary to aſcertain what he ſhould receive as a gratuity over and above what the writings came to.

Q. Firſt of all, Mr. King, tell us what the buſineſs was that was to be done? A. Lord Falkland, Mr. Speed, and Mr. Broughton, were to join in diſpoſing of an annuity or different annuities in different deeds.

Q. Had

Q. Had you, as a friend of Lord Falkland, had any negociation with Mr. Gillham for this purpoſe? A. Mr. Gillham had originally ſaid to me (ſome time before this) that he had money to diſpoſe of; he ſent word ſo by two or three people. If I recollect right he had already ſupplied Lord Sandwich and Mr. Speed with money.

Q. Do I underſtand you right, that from Mr. Gillham you underſtood that money had been advanced to Lord Sandwich and Mr. Speed, and that he had farther ſums to advance? A. He ſent me word ſo by Livingſton, then by Neale, and then I ſaw him.

Q. When you ſaw him, tell me the converſation you had on the buſineſs? A. He ſaid he wanted annuities on more lives than one: as many lives as he could join. I told him that Mr. Speed and Mr. Broughton wanted money, as they had done before. Mr. Gillham aſked me whether I could prevail on Lord Falkland to join in this; I ſaid I did not think that Lord Falkland had any good ſecurity to offer, for that I underſtood that his eſtates were in litigation. He ſaid that was no buſineſs of mine, that his clients would advance the money, if Mr. Broughton, Mr. Speed, and Lord Falkland would join,

Q. Then ſo far the buſineſs had gone between Mr. Gillham and you, that Gillham was to come to your home to compleat a buſineſs? A. It was to propoſe the buſineſs to Lord Falkland that Gillham came in the morning. I told Lord Falkland before that I ſhould get him ſome money, but I did not tell him in what manner, or from what quarter.

Q. Did you intimate to Gillham that probably Lord Falkland would join in theſe annuities, and therefore encouraged him to come to your houſe? A. I did.

Q. Then

Q. Then I believe we may go to your houſe. When Gillham came there, ſtate what paſt there, to the beſt of your recollection? A. He ſaid the writings would come to 100l. He had ſent me a letter before, ſpecifying the manner in which the annuities were to be done.

Q. Did you make the ſubject of that letter matter of converſation, ſo as to make the letters evidence in Court? A. Mr. Gillham knew what money was to be advanced, and what the preciſe additions were to be.

Q. Was the ſpecific annuity of 125l. and another of 125l. and another of 100l. mentioned? A. All I can tell is this, that Mr. Gillham ſaid he ſhould expect about a hundred pounds for the writings, and 100l. for himſelf, and five per cent. commiſſion, but he did not calculate the commiſſion preciſely.

Q. Now tell my Lord, and Gentlemen of the Jury, the buſineſs that paſt at your houſe? A. Then I propoſed this to Mr. Speed, to Mr. Broughton, and Lord Falkland, to know whether they would conſent to it.

Lord Kenyon—When was this? A. The firſt of February.

Mr. Fielding—What was ſaid upon this propoſition? A. Lord Falkland began to make ſome objections, for he ſaid that Broughton joined in this ſecurity, to enable Lord Falkland to pay him an old debt of 300l. or ſome ſuch ſum, and that, when theſe deductions were made, he would have hardly any thing to receive; but ſome of them made anſwer, "It don't ſignify, we muſt pay it, we muſt ſubmit to the terms, be they what they may," or ſome words to that purpoſe. Then Mr. Gillham was diſmiſſed, and deſired to go and get the writings, which he did, and returned

turned at about four o'clock, or half after three; it was before dinner.

Q. Mr Gillham returned in the afternoon; did he not? A. I ſay he did?

Q. Tell us what took place when he came in the afternoon? A. After the writi gs were ſigned, he aſked whether the gentlemen were apprized of his expectations.

Q. Before the writings were ſigned, I will aſk you particularly with reſpect to Lord Falkland. Did he read them, or were they read to him, before he ſigned them? A. Nobody ſeemed inclined to have them read, nor were they read.

Q. When Gillham aſked if the gentlemen were appriſed of his expectations, what anſwer did you ma to that? A. I ſaid they were. Then they deſired me to calculate what they were to pay, to apportion out the ſums for them.

Q. You apportioned the ſums by calculating the commiſſion on each? A. There was only one ſum to calculate, the five per cent. commiſſion; the other ſums were aſcertained at 100l. for writings, and 100l. as a preſent.

Q. Was that contribution made ſeverally by them? A. Yes.

Q. Who received the money, for the purpoſe of giving it to Gillham? A. At one time Speed took up the money, at another time Broughton took up the money, and there was a deal of jocularity who ſhould pay Mr. Premium.

Q. Who did they call Mr. Premium? A. Mr. Gillham.

Q. When the jocularity had ſubſided, who ultimately took the money to pay it to Mr. Gillham? A. Lord Falkland.

Q. Did he afterwards, in your preſence, give it to Mr. Gillham? A. We went into an adjoining room, Mr. Gillham, and Mr. Livingſton, and myſelf. All the clerks were deſired to go out of the room.

Q. Who deſired the clerks to go out? A. Mr. Gillham deſired them to go out.

Q. On what occaſion—Was this when the money was collected—Out of what room? A. Out of the room where the writings were executed.

Q. I forgot to aſk you, Mr. King, Did you ſee the money brought by Mr. Gillham and advanced down on the table? A. I did.

Q. How much was the ſum total? A. I do not recollect without looking at my papers; two thouſand pounds odd.

Q. That was the ſum paid down? A. I will not ſo much report on that as I will on a calculation that was made; the calculation was 322l. 10s.

Q. You got ſo far as telling my Lord, and Gentlemen of the Jury, that Lord Falkland had got the money, the 322l. 10s. to pay Gillham. In that room where Gillham was, when the money was paid into Gillham's hands, were there any one preſent, beſides Lord Falkland, Mr. Gillham, Mr. Livingſton, and yourſelf? A. There was not.

Q. Was the money paid into Gillham's hands by my Lord Falkland? A. Yes.

Q. And you are ſure there was nobody elſe there but thoſe you mentioned? A. There could be nobody elſe there, becauſe every body elſe was ſent out of the room; Mr. Gillham objected to any clerks being preſent.

Q. Now

Q. Now tell my lord and gentlemen of the jury diſtinctly, when the money was paid into Mr. Gillham's hands, what was obſerved by him? did he ſay any thing when my Lord Falkland gave him the money, or did you hear my Lord Falkland ſay any thing to him? A. I do not recollect any thing elſe than that he thanked him, and mentioned a little boy there, I took him by the hand, I took him on my knee, and ſaid to Lord Falkland you had better give him four or five guineas.

Q. Be ſo good to inform my lord and jury what age this little boy might be? A. He appeared to me to be about ſeven or eight years old.

Q. Did my Lord Falkland give him five guineas? A. My Lord Falkland gave him five guineas.

Q. Was there any thing ſaid about a ſeal on that occaſion? A. I forget whether Lord Falkland ſaid it would buy a ſeal, or Gillham ſaid he muſt have a ſeal, or I might have ſaid it.

Q. Did Mr. Gillham ſtay there long after the receipt of this money? or what became of him? A. He went off almoſt immediately, the gentlemen ſtaid and dined with me.

Q. At the time when Mr. Gillham went off, was it according to your knowledge that the clerks of Mr. Gillham, that had come to witneſs the deeds. alſo went? A. They were in the hall while this converſation paſſed, that is, a man beſides the boy, for I ſaw no other, I did not ſee any other but the liitle boy and a clerk.

Q. What people did Gillham bring with him? A. I cannot recollect any more than this boy and a man.

Q. Did you ſee any thing further of Mr. Gillham that night? A. Mr. Gillham left ſome meſſage in the hall, I

ſent to him in the evening to know what he wanted with me, he left a meſſage to deſire I would call on him in the evening.

Q. Now Mr. King will you be ſo good as to tell us when the writings were about execution, and to be witneſſed, if you remember who were the witneſſes? A. Do you aſk whether I remember their names.

Q. Whether they were the people that you brought, or any people that Gillham had brought? A. Mr. Gillham objected to any of my people ſigning them; he ſaid his own people ſhould ſign them.

Q. Do you remember what was ſaid about the buſineſs being in his power either to accelerate it or delay it, when there was a heſitation about paying him the money? A. It was on that account that Gillham ſaid that the money was in his power, and that Mr. Phillips had left every thing to him; and ſaid if you do not comply, the buſineſs ſhall not be done.

Mr Gibbs.—You told me that you was ſworn on the New Teſtament; was you never of the Jewiſh religion? A. Ever ſince I came to that time of when life men generally judge for themſelves, I have not been of that perſuaſion.

Q. I believe no longer ago than the year 1789, an action was tried againſt you and Lady Laneſborough, and in order to get rid of the action, did not you then bring evidence that you and your firſt wife were divorced according to the rites of the Jewiſh religion? I heard the fact proved, I was in court, it was a marriage and the divorce was pleaded in court? A. The divorce had taken place a vaſt number of years before that, the father of the young woman ſaid, that I did not live according to his religion, and ſued for a divorce on that account, which is conformable to the Jewiſh laws.

Q. At

Q. At what period of your life did you quit the Jewiſh religion; or in other words, at what period of life was it you become a Chriſtian. A. Above 25 years ago.

Q. What age are you now; I apprize you it is my duty to aſk you theſe queſtions, and therefore you will not think I mean any incivility to you perſonally, for I do not, I am only doing my duty:—you ſay you quitted the Jewiſh religion above 25 years ago, I wiſh to know what age you are now? A. I am aware, and I find you are aware Mr. Gibbs that you may uſe a conduct here which you dare not uſe towards me any where elſe. I am near forty.

Q. How much more than forty? A. It is difficult to get the regiſter of my age, becauſe no public regiſter is kept of thoſe born of Jewiſh parents.

Q. Will you be ſo good as to tell us your age to the beſt of your knowledge and belief? A. I dont think I am forty.

Q. How old was you when you was married to your firſt wife? A. What is the object of theſe frivolous queſtions? About twenty I think.

Q. *Sylveſter.* Did not you profeſs the Jewiſh religion then? A. Define what you mean by profeſſing it.

Q. *Gibbs.* Holding yourſelf out to be of the Jewiſh religion. A. I believe I made no declarations, no diſavowals. I ſhould have thought that a man's notions of religion are between God and himſelf, and not a ſubject of diſcuſſion in a caſe like this; whatever is the eſtabliſhed religion of a country; I believe every man has his peculiar notions of religion.

Q. Was you married to your firſt wife at the ſynagogue? A. No.

Q. Was you married as a Jew? A. Her father inſiſted

ſiſted on her being married as a Jeweſs: what I thought I believe the father did not know.

Q. Did you ever repreſent to him that you was not of that religion? A. He always conceived that I was not.

Q. Have you ever been baptized? A. That it is not neceſſary I think.

Q. Then no ceremony had taken place by which you have paſſed from the Jewiſh religion into the Chriſtian: it is merely a voluntary act of your own, paſſing out of the pale of one religion to another? A. Some of your friends who are mine would not uſe ſuch impertinence.

Q. I mean none, Sir; I want to come to facts. A. But you are ambitious of furniſhing matter for newſpaper comment: ſuch meanneſs forfeits the little credit you have lately gained.

Q. I wiſh to know whether any ceremony took place on your paſſing out of the Jewiſh religion into the Chriſtion? A. You have ſaid I did not undergo any ceremony, and I have left it there.

Q. You muſt not judge of what I ſaid, but what do you ſay yourſelf? A. I objected to it—I refuſed a place in the Miniſtry under the King of Naples when I was there, becauſe I would not become a Catholic; for I would not pretend to profeſs what I have no faith in:—few men, I believe, know what is my religion, nor what my opinions of religion; nor would you comprehend them if I was to explain them.

Q. Have you any religious objection to the ceremony of baptiſm? A. It is a matter of indifference.

Q. Where were you married to Lady Laneſborough? A. At Shrewſbury Church: I had been married abroad at Milan, in Lombardy; but Lord Belvidere choſe I ſhould

be

be married again in England: I was married at Milan by a Mr. Beresford, an Engliſh clergyman who was abroad.

Q. There was an indictment preferred againſt you for perjury on an affidavit, I wiſh to know whether that affidavit was ſworn on the Old Teſtament or the New? A. On the New: but will you be ſo good as to ſtate to the Court that that proſecution was withdrawn by the proſecutor, becauſe he couid not maintain it.

Q. In conſequence of ſome enemy to Mr. King having ſtolen the pleadings off the file, and not ſuffering him to be acquitted by a Jury of his country: does your Lordſhip think that Mr. King is impreſſed with the proper ſenſe of an oath?

Lord Kenyon. If he tells me that the oath he has taken is binding as to his conſcience, I am bound to receive his teſtimony: you muſt have an oath, an affirmation will not do in this caſe, which is a criminal proſecution; but I muſt ſay that all theſe queſtions were improperly put by Mr. Gibbs.

Mr. King—My Lord, it was always underſtood that the proſe cutor took away the affidavit to furniſh an excuſe for his not proceeding in a proſecution founded in malice: but Mr. Gibbs has the privilege of being impudent.

Mr. Gibbs. I believe you, together with ſome friends of yours, were indicted for a conſpiracy on this very tranſaction—you have heard ſo. A. I have heard ſo, and it was my opinion that Lord Falkland ſhould have tried that before he tried this

Q. Notwithſtanding that opinion of yours, I fancy you contrived as far as you could, to make an affidavit to put off the trial of that conſpiracy on account of the abſence of a material witneſs.—Was not that indictment preferred before

before this? A. I believe if Lord Falkland would have given Mr. Gillham a ſufficient indemnification that he would not inſtitute this proceſs, that proſecution would not have been commenced; but the defendant's conduct in this proceſs proves how dangerous it would have been to have riſked a trial where men are prepared to ſwear any thing, and Mr. Broughton not there to confront them; Counſel adviſed poſtponing our trial.

Q. The queſtion I put to you, Mr. King, is this, and I dont like your comments, whether that indictment againſt you and Lord Falkland was preferred before he or you preferred this indictment againſt Mr. Gillham? A. Their's was preferred firſt, or we ſhould have ſcorned to prefer this, however culpable in the tranſaction he was.

Q. There is alſo another indictment againſt you and Speed, that was alſo preferred before this? A. It was, and in the ſame buſineſs; Mr. Gibbs, you know how eaſy it is to get indictments againſt any man, there is no difficulty in it.

Q. If you mean to ſuppoſe ſo with regard to the preſent indictment, I do agree with you? A. I mean the inſtance of their indictment againſt us.

Q. When this money was paid, this 2450l. was you preſent? A. I was.

Q. Do you remember how it was paid Mr. King? A. In bank notes and ſome guineas.

Q. Did the Gentlemen to whom it was paid, apportion it among themſelves? A. Yes.

Q. Do you recollect how they divided it? A. Do you mean how much each perſon took to himſelf.

Q. Yes? A. I do not, there was a good deal of money to be paid between one another, Mr. Broughton and Lord Falkland

Falkland had an account, and I dont know how much each took away.

Q. You did not furniſh them with any money on that day? A. When there was a difficulty about the commiſſion I opened the drawer and changed ſome bank notes.

Q. When there was a difficulty about paying the commiſſion, you now ſpeak about paying the 322l. 10s.? A. I do.

Q. Not on any difficulty about the money among themſelves? A. I dont know which.

Q. How came you to be ſkilled in the Jewiſh religion if you are not of it? A. I am ſkilled in the Heathen mythology, and yet am not an Heathen; it is having examined religions that has taught me which to prefer; your ignorance of them makes you unacquainted with the ſacredneſs of an oath; you would depreciate mine, though I think I am impreſſed with the ſolemnneſs of it more than you are.

Q. Is this the only annuity tranſanction that you was ever concerned in? A. It is not.

Q. Then if your mind has been turned to theſe ſubjects, you are more likely to recollect the circumſtances? A. I have been called an agent, but I am not in the agency buſineſs now.

Q. Were you a money lender? A. Yes; no dirty inſinuations to the court if you pleaſe; remember I am not to be rank'd with the common claſs of money lenders, neither my fortune or the tranſactions I conducted (for they have been of the higheſt) place me among them; a line of buſineſs different from mine is conceived by what is termed money lending.

Q. How long was you in that buſineſs? A. Many years.

Q. How many years, Mr. King? A. Fifteen or ſixteen years.

Mr. Mingay.—Was that your way of gaining your living? A. Chiefly.

Mr. Gibbs.—How long have you ceaſed to be a money lender? A. You muſt make a diſtinction between procuring money as an agent, and adventuring one's own money.

Q. Take your own ſenſe of the word, how long have you ceaſed to be a money lender? A. I ſhall explain myſelf to the ſatisfaction of the court if I am permitted, and not interrupted ſo often by you; I acted as agent formerly, and lately I have lent my own money, and not received any commiſſions as a broker; if lending my ſpare money on mortgage, entitles me to the title of money-lender, then every mortgagee in the kingdom is a money lender.

Q. Then formerly you carried on one mode of money dealing, and now you are in another? A. I have anſwered you, and you are to underſtand that I did not derive what I am worth by money dealing; Mr. Gibbs it is an unfair manner of treating me, I can put any man's life on the rack by aſking him all the things he has not been, as if he had been all he is interrogated about.

Q. My next queſtion is, whether you have always borne the name of King, in ſhort whether you took that name for any eſtate? A. I never had any other name in my life, this is another queſtion of impertinence.

Q. What was your father's name? A. My father's name was King, what elſe could it be.

Q. Pray, Mr. King, did you never repreſent that Lord Falkland had an eſtate in the Iſle of Thanet, that would be ſecurity for the money that would be advanced.

Lord

Lord Kenyon. Mr. King muſt not entangle himſelf in anſwering any queſtions that may criminate himſelf. I am ſure if you was aware that an anſwer to ſuch a queſtion would have that tendency, you would not have aſked it him.

Mr. King. My Lord, I will anſwer him if you pleaſe—I gave to Mr. Gillham the abſtract of a deed of an eſtate in the Iſle of Thanet, belonging to the anceſtors of Lord Falkland, to which there was an opinion annexed of a perſon of the name of Walker, who thought Lord Falkland had a right to that eſtate.

Mr. Gibbs. I aſk you whether Lord Falkland ever told you that he had property to the amount of 900l. a year, in the pariſh of Minſter, in the Iſle of Thanet.

Lord Kenyon. In order to conſtitute a conſpiracy, there muſt be two or more concerned, and conſequently you ſhould endeavour not to aſk him queſtions that may involve any one.

Mr. Gibbs. This gentleman being indicted for a conſpiracy, and then afterwards having indicted Mr. Gillham for taking this money, it would be a hard thing on us now we are on the trial of Mr. Gillham, if we ſhould not be able to put any queſtions to him in the defence of Mr. Gillham, becauſe he is indicted for a conſpiracy.

Mr. King. Mr. Broughton would have indicted Mr Gillham many years ago, if I would have aſſiſted him on the back of the bill. Now I thought I might juſtly lend my aſſiſtance.

Mr. Gibbs. I would wiſh to know of your Lordſhip if I may not aſk this queſtion, whether my Lord Falkland ever told this witneſs that he would give ſome general charge of ſome property that he had in the Iſle of Thanet?

Lord Kenyon. That queſtion you may put, but I think you cannot put it further.

Mr. Gibbs. Did Lord Falkland ever repreſent to you that he had an eſtate in the Iſle of Thanet, on which he could give a ſecurity? A. He ſaid he thought he had a right to that eſtate, though it was not in his poſſeſſion.

Q. Did he ever repreſent to you that he would give a charge on that eſtate as a ſecurity? A. He ſaid he had an eſtate there, and the counſel was of opinion that he might recover that eſtate; and he would charge it, if under theſe circumſtances people would lend money on it.

Q. He repreſented this to you before the tranſaction with Mr. Gillham and Mr. Phillips. A. Yes, not as connecting it with that tranſaction, but as a matter of general converſation.

Q. Did he never repreſent to you Mr. King, that he would charge that property for money which Mr. Gillham, or ſome of his clients might advance? A. Do you mean annexing it to that very buſineſs.

Q. No, I do not, but I mean the queſtion as I put it.

A. No; I anſwer all your queſtions, though you ought not to aſk theſe, for they branch out of the other queſtion which Lord Kenyon told you ought to terminate the enquiry.

Q. Then Lord Falkland never did repreſent to you that he would give a general charge on the eſtate in the Iſle of Thanet, for any money that Mr. Gillham might procure for him.—If therefore you repreſented that, you exceeded your commiſſion? A. I might have underſtood from Lord Falkland, that he had ſuch an eſtate formerly in the family.

Q. Mr

Q. Mr. King, there is no eluding your ſagacity: I wiſh to have a direct anſwer to this queſtion, and we will go to the next, as your anſwer may lead to that: I wiſh to know whether Lord Falkland ever authoriſed you to tell Mr. Gillham that he would give a general charge on ſome property he had in the Iſle of Thanet, in Kent? A. No, he did not. I hope I ſhall not want ſagacity enough to perceive the tendency of your queſtions, however they vary their ſhapes, and prevent a wrong impreſſion on the Court from you or your auxiliary's obloquy.

Q. Now the queſtion that I would follow that with, is, whether you did ever repreſent it ſo to Mr. Gillham? *(a paper ſhewn the witneſs)* A. This is not my hand-writing.

Q. It begins "Mr. King's compliments." A. Then that is not my hand-writing.

Q. Mr. King, you negociated this buſineſs for my Lord Falkland, Mr. Speed, and Mr. Broughton? A. What do you mean by negociated it; I have already told you that this buſineſs came to me through Mr. Livingſton and a Mr. Neale, that they propoſed it to me.

Q. Who is Mr. Neale, was he a clerk of yours. A. He was once.

Q. Is he your clerk now? A. I have had no clerks for two or three years—he acted then for himſelf too.

Q. Is this Neale's hand-writing? A. Yes, it is; and what is the wit of that; what's the ſneer at aſking this queſtion; why does Mr. Mingay wink and make grimace.

Mr. Mingay. My caſe to go to the Jury is, whether they will believe you on your oath or not. A. The Jury may believe me on my oath or not; but you may rely upon it, I ſhall ſpeak the truth to your confuſion, and all your

your inſinuations and rudeneſs cannot diſconcert me, cannot make me prevaricate.

Mr. Gibbs.—This Neale was your clerk at the time of this tranſaction, and you ſay that this buſineſs came into your hands through the means of Neale and Livingſton: Livingſton is a broker, I believe? A. Yes, he is. What is the intent of aſking the ſame queſtion twenty times.

Q. Had you any former tranſactions with Livingſton? A. Yes.

Q. Then it came into your hands through Livingſton, who was your broker, and Mr. Neale, who was your clerk. Pray did you undertake this for mere dry friendſhip for theſe gentlemen? A. I was in habits of friendſhip with Lord Falkland, Mr. Speed, and with Mr. Broughton; very much with Mr. Broughton.

Q. Did that connection ariſe from a liking you took to each other, or was it from a money tranſaction. I will take my Lord Falkland firſt. How did your acquaintance commence with him? A. I became acquainted with him in company.

Q. I ſee his Lordſhip ſmiles at that. A. What does that mean—He may ſmile at the futility of your queſtions, but he will not dare to deny what I aſſert.

Q. Now he laughs.—I aſk you whether your connection with Lord Falkland aroſe from each of you taking a liking to one another, or from a money connection? A. Lord Falkland muſt know very well that my connection with him came through Mr. Davis. If your ſatire would convey that I have no acquaintances but from my profeſſion you are miſtaken, for my moſt reſpectable acquaintances have not ariſen in that way.

Q. Which

Q. Which Mr. Davis is that, Mr. King? A. The Prince of Wales's Mr. Davis.

Q. Is that the man that is called Black Davis? A. He is a dark complectioned man.

Q. That is the reaſon of his being called ſo, is it? A. Aſk the next queſtion, and be ſerious in a matter that requires it. We are not on equal terms, where one ſtrikes every blow, and the other is reſtrained. If we were to change places, what would become of you, with your wretched ſubtleties and puny underſtanding?

Q. For what purpoſe did Mr. Davis introduce Lord Falkland to you? A. What again? I do not know that he mentioned any other cauſe than that he was a genteel man, and I ſhould like his acquaintance.

Q. He did not mention that he wanted you in the money lending way? A. No.

Q. How ſoon after Mr. Davis had done Lord Falkland the honour of introducing him to you—How ſoon after that did you engage to furniſh him with any money, or enter on a tranſaction of this ſort? A. Wonderful wit; three or four months.

Q. Do you mean to ſay that your acquaintance aroſe from any other quarter than borrowing of one ſide, and lending on the other? A. He did not ſay any thing about money in the firſt inſtance.

Q. Mr. King, in this very tranſaction that we are talking of, did you act from mere friendſhip for theſe people, or had you any feeling yourſelf? A. I believe I was actuated from a deſire of ſerving all the parties, when I undertook this buſineſs.

Q. When you ſay you had a deſire of ſerving all the parties, do you include yourſelf? A. Monſtrous ingenuity

nuity. I forget what was given me, or whether I received any thing, or whether Gillham was to refund any part of that he received.

Q. Then whether you received any thing in this buſineſs, or whether Mr. Gillham was to refund any part that he had, you have forgot. Is that your anſwer? A. I have forgotten whether there was a contract paſt between Mr. Broughton, Mr. Speed, Lord Falkland, and me; that they were to pay me, or whether Mr. Gillham was to pay me out of what he was to receive or not, I don't remember.

Q. How much had you in one manner or another? A. I had a promiſe of 50 or 60l. of Mr. Speed, nothing of Mr. Gillham.

Q. How much had you of Mr. Broughton? A. I do not recollect any thing of Mr. Broughton; he was to give me that as for them all. I remember I ſaid at table, that Mr. Gillham had had ſo much, they had better not give me any thing.

Q. And how could they prevail on you to take any thing at laſt—What arts did they uſe, after you were lamenting their pitiable ſituation—What arts did they uſe to induce you to take this 50 or 60l.? A. Have you any ſerious queſtion to aſk?

Q. I am very ſerious in this queſtion. A. Perhaps you don't know that at this moment Mr. Broughton owes me two thouſand pounds; and if I can admit ſuch a debt to be owing me without demanding it, I may be capable of another inſtance of generoſity.

Q. I want to know, after you had profeſſed that diſinclination to take any thing, how they prevailed on you to take

take it, what arts they made uſe of? A. This word art is ſilly, and a miſerable attempt at wit.

Q. How much did Lord Falkland give you, M. King? A. I don't remember his giving me any thing.

Q. Will you ſwear that he did not? A. I will not; becauſe it may have been Lord Falkland, and not Mr. Speed, who was to pay me.

Q. Will you ſwear, that on the beſt of your knowledge and belief, Lord Falkland gave you nothing? A. If I could be prepared to anſwer theſe queſtions, as you are to aſk them, I would have brought my papers, and then I ſhould have aſcertained the matter.

Q. This boy that you kiſſed had five guineas; you took him on your lap? A. I believe Mr. Gillham introduced him as a boy to have ſome preſent.

Mr. Fielding—We have given no interruption to this croſs-examination, perfectly contented it ſhould go on, though there were two or three queſtions aſked improperly, which your Lordſhip was kind enough to take up, but that Mr. King is a match for them.

Mr Fielding to Mr. King—Mr. King, you ſay that Mr. Gillham came to you about this indictment that is now preferred for a conſpiracy, or ſome other indictment? A. Mr. Gillham came to me, and aſked me if I would give evidence againſt Lord Falkland and Mr. Speed, if he ſhould prefer a bill of Indictment againſt them. I aſked for what? He ſaid I muſt ſtate before the Grand Jury, that Mr. Speed and Lord Falkland had impoſed on me; that Broughton and Lord Sandwich too had impoſed on me. I aſked Mr. Gillham if he remembered his own letters. I ſaid they have letters of yours, and ſo have I. As to the eſtate of Lord Falkland in the Iſle of Thanet, it is you

have impoſed on your client, becauſe you ſaw the doubtful opinion tacked to the abſtracts; there are letters of your writing to Mr. Speed and to me (now in court), in which you ſtate that you have been down to Brampton in Huntingdonſhire, to enquire as to the property of Mr. Speed, and you ſtate in theſe letters that you have enquired and are ſatisfied with the property; and that you have ſearched Doctor's Commons for Mr. Speed's property, and been with Drummond the banker; beſide, you have had other tranſactions with Mr. Speed ſince that without my knowledge, for which you, as attorney, ought to have examined into; how is it poſſible then I can be a witneſs againſt them, when ſuch letters were written and are *now* in exiſtence.

Q. This application was made to you to become a witneſs againſt theſe men? A. Yes, for the original indictment, and that was to indict them all.

Q. At that time was there any indictment for a conſpiracy found againſt my Lord Falkland? A. There was a threat to indict all the parties, and on that threat Mr. Speed gave a freſh ſecurity to Mr. Phillips, for Mr. Speed ſaid that he would rather give a freſh ſecurity or do any thing elſe, than be brought into court on ſuch an accuſation.

Mr. Sylveſter.—They wanted you to be a witneſs? A. They did, but ſince that, I find I am indicted with them to prevent my being a witneſs for them.

Mr. Gibbs.—Do you know of any threats being made uſe of where Mr. Gillham was a party? A. Mr. Gillham called on me before a bill for a conſpiracy was preferred, and ſince, he called on me to ſay, that his client was an obdurate, poſitive man, and that he was ſure he would murder him

him if he did not get a bill preferred, and I do believe Mr. Gillham, becauſe the proſecutor, threatened that he would kill us all if this proſecution failed.

Mr. Mingay—Who do you call the proſecutor? A. Mr. Phillips.

Mr. Gibbs—Were there any terms propoſed of pecuniary accommodation ſince the bill has been preferred? A. Lord Falkland ſaid he would rather pay money to any amount than this ſhould come before the court, though he felt himſelf innocent as to any fraud; but it was a very diſagreeable thing to have his name canvaſſed in a newſpaper on ſuch a buſineſs, and a meeting in conſequence of that was held in the Temple.

Q. Before this meeting do you know the ſum held out by which my Lord Falkland might have got out of their fangs? A. My Lord Falkland offered to redeem the annuity, and a meeting was held for that purpoſe, but they refuſed to accept five thouſand pounds; I ſhould not chuſe to relate what paſſed at this meeting, for I pledged myſelf to Mr. Gray that it ſhould never be talked of if it came to nothing.

Q. You ſay you remember this part of the tranſaction, that when the money was paid down you was called upon to change a larger bank note for ſmall ones? A. Yes.

Q. Were there many that you gave? A. I gave ſeveral in exchange.

ALEXANDER LIVINGSTON Sworn—Examined by Mr. RAINE.

Q. Do you remember carrying any meſſage from Gillham to King, about January, 1792? A. I do.

Q. Do you recollect the ſubject of that meſſage? A. I do not.

Q. Then we will take you now to the firſt of February? Were you preſent at Mr. King's houſe when Gillham and ſeveral others were about a money tranſaction, do you recollect being preſent? A. Yes, I do.

Q. Then will you relate what paſt? A. It was in the afternoon, I was there about three or four o'clock.

Q. Who were preſent? A. Mr. King was there? It was at Mr. King's houſe.

Q. Was Mr. King preſent? A. He was.

Q. Who elſe were preſent? A. Mr. Speed, Mr. Broughton, Lord Falkland, Mr. Gillham, and his clerk I think there was, and a young lad.

Q. What was done when theſe were met at Mr. King's houſe? A. Mr. Gillham brought ſome money for three annuities, he paid the money for three annuities.

Q. What was the ſum that he brought? A. I dont know exactly, I believe the amount was 2450l. It was laid down in notes and caſh.

Q. Did you ſee it laid down in notes and caſh? A. There were ſome notes bundled up and laid down, and Mr. Speed took up what was laid down and ſaid it was very right I have ſearched the Inrollment Office to ſee how much it was, and it appears to be there 2450l. and I believe that was the ſum that was put down.

Q. When the money was put down who went out of the room, can you recollect? A. If you give me ſome time I will recollect, it is impoſſible I can recollect at once; I think Mr. Gillham and Mr. King went out of the room.

Q. Who

Q. Who were left in the room? A. Mr. Speed and Mr. Broughton, and Lord Falkland, were left in the room, they were the people that received the money.

Q. Did all the reſt go out? A. To the beſt of my know-ledge they did, I cannot recollect every circumſtance, it is impoſſible.

Q. Where did they go to all of them? A. Into an adjoining room.

Q. Were you preſent when any money was paid to Gillham, and do you recollect who paid it? A. If I remember right, it was Lord Falkland.

Q. What room was this paid in? A. If I remember right, it was in a little back room.

Q. At the time Lord Falkland paid this ſum to Gillham, do you recollect what this ſum was? A. It is impoſſible for me to ſay.

Q. Who were preſent when this ſum was paid to Gillham? A. I do not recollect exactly; I dont know there were any body preſent but Gillham, King, and Lord Falkland, and myſelf was there. I do not remember any body elſe preſent.

Mr. Sylveſter. Mr. Livingſton, what are you? A. I have been an agent in the money line for ſome years.

Q. How many years have you been connected with Mr. King? A. Not long.

Q. How long? A. That was the firſt buſineſs I did with Mr. King.

Q. What had you to do with that buſineſs? A. Mr. King aſked me to get that annuity done for him: he aſked me to do this annuity for Lord Falkland, Mr. Speed, and Mr. Delves Broughton, and I went and told Mr. Gillham, and he ſaid he believed he could do it.

Q. Then

Q. Then it was you that applied to Mr. Gillham to do this for theſe three gentlemen? A. It was.

Q. What was the ſecurity? A. I know nothing at all about the ſecurity; I made the appointment to meet Mr. King.

Q. As you was to get the money for Mr. King's client, you was inſtructed what the ſecurity was? A. I cannot recollect that.

Q. Of whom did you get the ſecurity of Mr. King, or the other parties? A. I dont know whether I did not have the ſecurity of Mr. Speed; Lord Falkland was not there when I met firſt.

Q. Did you hear either from him, or any body elſe, what ſecurity he would give for theſe annuities? A. I never heard what ſecurity he would give in my days.

Q. Did you hear Mr, Speed ſay what ſecurity he would give? A, I might hear, but I forget. Mr. Gillham told me himſelf that he went down to Huntingdon to ſeek after it, and he was well ſatisfied with it.

Q. As you was to borrow money for Mr. King's client, no doubt he told you the ſecurity he was to give? A. No doubt but he did, but I forget.

Q. Was it on a ſecurity of an eſtate in the Iſle of Thanet? A. I am not able to tell you that; I gave it to Mr. Gillham as they told me; then that is all I know about it: but I never ſaw the gentlemen before, nor ever knew them before that tranſaction,

Q. You knew Mr. King many years? A. Never knew him till about that time.

Q. Nor his clerk, Mr. Neale? A. I did not know Neale then; I know him ſince.

Q. Then you knew none of the parties? A. I did not

not not know any of the parties; they were all ſtranger to me almoſt.

Q. When you applied firſt to Mr. Gillham, did Mr. Gillham aſk you who you came from? I told, him; I told him every thing I knew; I told him that I came from Mr. King, and theſe gentlemen.

Q. Did he aſk what Mr. King? A. I told him John King.

Q. Then Mr. Livingſton, if I underſtand you right, you neither knew Neale, the clerk, very little of Mr. King, and nothing at all of Lord Falkland?

Q. How long had you known Mr. King? A. Not long.

Q. Then it was caſually you went about this annuity? A. It was quite caſual.

Q. When was the appointment made? A. I am not able to tell what day the appointment was made.

Q. What time of the day was it you went there? A. It may be three or four o'clock in the afternoon.

Q. It was in the afternoon—it was not in the morning you are ſure? A. No, it was not in the morning.

Q. Did you ſtay and dine there? A. No, I did not, I never dined there in my days.

Q. When you came there, there were theſe gentlemen you have mentioned, Mr. Gillham, his clerk, and a lad I think you ſay: what age lad was it? A. A little lad, he is taller now a great deal.

Q. How old do you think the lad was? A. He might be then about 10 or 11; but he was very ſhort of his age.

Q. A lad about 10 or 11: this was the lad that witneſſed the deeds, was it? A. I cannot tell.

Q. He

Q. He did not witneſs the deeds? A. I don't know.

Q. But you recollect there was a lad about 10 or 11, and a clerk of Mr. Gillham's? A. Yes.

Q. Then the money was paid, but you don't know, of your own knowledge, what ſum was paid? A. No; I cannot tell. It was a bundle of Bank notes, and it was impoſſible for me to tell.

Q. Nor what was the amount; what might that be—When you mention the ſum of 2,450l. that you took from the office? A. I was not ſure, and I went to the Enrollment office, and that appeared to be the money paid for the deeds.

Q. If it was not for the Enrollment office, you could not have told what ſum it was? A. I could not have remembered; how could I?

Q. When they took up the notes, and ſaid it is all right, was there a liſt made? A. I don't know of any liſt that was made.

Q. You know, when people pay notes, you know it is uſual for ſomebody to pen down the numbers of them, and the value of them? A. It was given in a bundle, and they handed them about among themſelves.

Q. Did they ſign the papers? A. Yes, they did; Mr. Gillham did not know who to pay the money to, and they agreed to ſign a paper; that it was Mr. Speed that was to receive the money, if I remember right, and whom he gave it to; becauſe the Act of Parliament ſays they are to pay the money down, and then he made them all ſign the paper whom he was to pay the money to.

Q. Was that the liſt of Bank notes that was paid? A. I don't know that.

Q. After

Q. After the money was paid, you was not preſent when it was divided? A. I did not ſee it.

Q. As to what money afterwards was paid to Gillham, you did not ſee that neither? A. I ſaw it was Bank notes.

Q. Did you ſee what number? A. No, I did not.

Q. Was there any caſh? A. I don't know that there was. It may be there was. I cannot ſay to the contrary.

Q. Will you ſay on your oath whether there was or was not? A. I will not ſay at all.

Q. Nor you don't know the amount of the notes? A. I do not.

Q. Now, at the time that this caſh and Bank notes were given to Gillham, the clerk was not gone out of the houſe then? A. I did not ſee the clerk then, as I remember.

Q. You ſaw the clerk there, you know? A. I ſaw the clerk there when the deeds were executed.

Q. Will you on your oath ſay that the clerk went away before Mr. Gillham? A. I don't know that he went away. I did not ſay ſo.

Q. Where was the clerks at that time the money was paid to Mr. Gillham? A. I don't know where the clerks went to.

Q. If there were ſome of the people in one room and ſome in another, were the clerks in either of the rooms. A. I don't know, they were not in the room where I was.

Mr. Rains—You ſay the clerks were not there at the time the money was paid to Gillham? A. Not in that room.

Q. Do you recollect whether there was more than one Bank note paid to Gillham? A. Yes, there were.

Q. With reſpect to the nature of your employment, you are a bearer of meſſages? A. Nothing elſe.

Mr. Silveſter to Livingſton—As you was the perſon employed to go to Gillham, what were you to have for this? A. I really do not recollect; they gave me ſomething for my trouble; Lord Falkland or Mr. Speed did; Mr. Gillham gave me nothing.

Q. Mr. King gave you nothing? A. I don't remember who gave it me.

Q. What did Mr. King receive? A. I never ſaw what he received.

WILLIAM HUCKSTON, Sworn.—Examined by Mr. SHEPHERD.

Q. Are thoſe the memorials of the Enrollment office? (*produces them*) A. Yes, they are.

Mr. Mingay. This may be evidence, if Mr. Shepherd means to ſhew that there were ſuch memorials.

Mr. Shepherd. Theſe are produced, becauſe it is ſtated in the indictment for whoſe lives theſe annuities were granted.

Mr. MINGAY—For the DEFENDANT.

May it pleaſe your Lordſhip,

Gentlemen of the Jury, I do aſſure you that I am not at all ſurprized that my learned friend to ſerve the purpoſes of the proſecution ſhould expatiate on the particular force and

energy

energy with which I ſhould preſs my arguments and obſervations. But Gentlemen, I am afraid I ſhall be under the neceſſity of detaining his lordſhip and you, in addition to that time tha thas already been occupied by this moſt important enquiry. And I will alſo ſtate to you, that there needs no apprehenſion on the part of my learned friend, as he has expreſſed himſelf, becauſe he is deprived of the aſſiſtance of others who were to have been in the ſervice of this proſecution, becauſe he certainly very much over-rated my feeble talents who am to ſupport this defendant.

Gentlemen, my learned friend has told you, and told you truly, that in conſequence of profeſſional form, two very learned friends do not appear enliſted on either ſide of this enquiry. I am ſure that both parties have great reaſon to lament that accident, and more eſpecially Mr. Gillham, becauſe my learned friend, who is engaged in the proſecution, is fully able to ſuſtain this or any other conflict that he is engaged in.

Gentlemen, this is a very important enquiry in more views than one; you obſerved, gentlemen, in the croſs examination of the firſt actor in this ſcene, the one, the principal witneſs, and the only witneſs in the cauſe, as I ſhall prove to you bye and by, I mean Mr. King, for I mean to inſiſt upon it before you, that he is the only witneſs as to this tranſaction. You obſerved, though I did not take any great part at the moment, though unqueſtionably my learned friend Mr. Gibbs was going on in a regular courſe of croſs-examination, that he preſumed to ſay as if I winked, indeed I could not reſtrain thoſe emotions which are not in our power to reſtrain for they are involuntary, and the emotions proceeded from me without my being able to reſiſt them, but he ſuppoſed that I did it to captivate you, but if he did

ſo ſuppoſe, he muſt have very mean conceptions of your underſtandings.

Gentlemen, I confeſs that the examination of that witneſs, the manner in which he has given his teſtimony, and the matter that has proceeded from him, is of the moſt important and extraordinary nature that ever I obſerved at the bar. And when I come to deſcant on the evidence of that worthy gentleman, I ſay, when I come to do that which I ſhall without terror do, I ſhall put it to you, whether you do or can believe his teſtimony, and ſhall not be terrified by him; and when I have ſo put it, I ſhall tell you the foundation on which I build the ſuperſtructure, namely the manner in which he has given his teſtimony to day, and the part he has taken in this tranſaction, and not in any other tranſaction, for we have nothing to do with any other tranſaction of his life be it good or bad.

Gentlemen, before I proceed to examine how the charge is made out, I ſhall take the liberty of ſtating to you diſtinctly what the charge is. And although certainly I will ſay, that I think the objection was well founded which I took the liberty of making in the early part of theſe proceedings, and if I have taken a wrong conception in this buſineſs, I am ſure I may be excuſed, becauſe this is the firſt proſecution that has ever riſen upon an act of parliament that has been recently made.

Gentlemen, the charge is this, and I mean to ſtate it in this way, becauſe if Gillham has been guilty of any offence, except the one charged, you cannot convict him as of this on this record.

Gentlemen, the charge on this indictment is this, that defendant in this proſecution, the James Gillham, received the ſum of 322l. 10s. as a gratuity and reward for the ſoliciting

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and procuring, and for the brokerage of the ſum of 2450l. that is thecharge. Now, with great deference to his lordſhip's judgment and your's, I ſay on this evidence the charge isſo far from being made out that it is completely negatived; and Gentlemen, I put my defence firſt in this way, becauſe if you ſhould be of opinion that the charge is not diſtinctly proved, and alſo, on the other hand, that the conduct of Mr. Gillham leads to a different concluſion, as I ſtated it before, and though upon this concluſion you might reprehend Mr. Gillham for his conduct, yet you cannot convict him of this charge; and in this ſtage of the defence I take the liberty of making this diſtinction, that if you ſhould be of opinion that he took 50 pounds more or leſs and that he took it of any other account than that charged in the indictment you cannot find him guilty of the crime imputed to him.

Gentlemen, my learned friend Mr. Fielding, hath painted to you in very lively and fixed colours, the ſituation of a young man of rank and faſhion, who get into dangerous labyrinths through their imprudence, which to be ſure he ſays you will blame, but you will not from hence inſer that they will fall into groſs and ſcandalous perjuries, though guilty of imprudence and levity; you are therefore not to credit what they ſay. I do not mean to ſay that ſo uncharitable a concluſion ought to be drawn, but when the object of a young man is to get money, when a young man of faſhion leaves the contract with the perſons ſo employed for getting him money to ſupply his vices and extravagance. ſuch a one's mind is too much occupied in the gay, faſhionable, and thoughtleſs circle of life to attend to thoſe circumſtances with which the money is lent or borrowed, accurately to diſcriminate what goes forward in theſe circumſtances,

ſtances, either in regard to this or that particular fact, ſo as ſay it took place in ſuch a way and manner with accuracy and diſtinctneſs.

Gentlemen, I mean to ſay this, I do not mean to wiſh to inſinuate, that my Lord Falkland ſhould be conſidered by you as if he came here before you to perjure himſelf contrary to his better faith and knowledge. But I do believe before I have concluded, what I have to ſay in defence of Mr. Gillham, that you will be ſatisfied, that that which you have heard, namely, the ſum of 322l. 10s. could never have been ſuppoſed to be transferred to Mr. Gillham; but on the contrary, which he is ſuppoſed to have taken, got into the pocket of another perſon.

Gentlemen, the fact is this, that though Mr. Gillham might have more offered to him, yet he received no more than the bill he had brought; but as to the 322l. 10s.—as to the brokerage, and the fun and fancy that was paſſing, as Mr. King deſcribed to you, he knew nothing about; as for inſtance, their talking about Mr. Premium, he told you he ſuppoſed Mr. Gillham was meant by that character, and which name has been brought forward to reprobate thoſe that are connected with this man, to bring them to their utter ruin in the ſequel.

Gentlemen, you ſee how artful this plan is laid, and if you was called upon to decide without exerciſing your better judgements, from knowing what paſſes in the world; I ſay, if you was called upon to decide without exerciſing the moſt important part of your duty which you now hold, I mean to ſay whether you are to give credit to all you hear, for that is the moſt important part of the juriſdiction of the Jury, you would certainly find againſt my client.

Gentlemen, Mr. Gillham is charged here before you with extorting the ſum of 322l. 10ss. and for procuring

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the loan of this money the ſum of 2450l. The evidence to ſupport it firſt of all is Lord Falkland, and here ſee how artful it is brought forward in his evidence; that Mr. King comes and ſtates to the company that Mr. Gillham would have five per cent. commiſſion, and a 100l. for the deeds, and a 100l. preſent. I ſubmit that that evidence (which is the firſt part of my defence) does not make out this alligation in the manner in which it is ſtated in the indictment. But for argument ſake, I will put it at firſt as admitting it to be taken againſt my client, and ſee how it ſtands even on that ground. You are told by Lord Falkland, and indeed the ſame by Mr. King, that Mr. Gillham went away for the purpoſe of fetching theſe deeds, that he came firſt at twelve o'clock, and negociated the buſineſs, the terms of the loan, and went away, and came afterwards with theſe deeds. But then, Gentlemen, it may be reaſonably aſked where did he dine—why that will be proved to you; it will proved to you that he was never there but once; and that affidavit which I read to Lord Falkland, was proof of the fact; for in that part of the affidavit which repreſents this tranſaction, it is a tranſaction repreſented as taking place at one time, and not that there was a meeting at twelve o'clock, and a ſubſequent meeting at five. I do believe in my conſcience, that my Lord Falkland having got into friendſhip with Mr. King, being introduced by Mr. Davis, whoſe character was hinted to you in the croſs-examination, this Noble Lord is introduced to the acquaintance of Mr. King for the purpoſes of borrowing money on one hand, and not for any other purpoſe.

Gentlemen, I do not wiſh to ſay any thing improper againſt Lord Falkland, or Mr. King; I would be very ſorry to wound the feelings of a Noble Lord: but when the

the liberty and character of this gentleman who ſits here, are at ſtake; when it becomes ſo important an enquiry, I muſt make ſuch obſervations as become me, let them fall on whom they will, that come forth to be witneſſes in this place.

Gentlemen, who it was that firſt introduced my Lord Falkland to the acquaintance of Mr. King, I know not; if it was his friend, I think from what has ſince paſt in this buſineſs, he has no reaſon to congratulate himſelf on his acquaintance.

I then choſe to put this queſtion to him, whether he was able to pay that for which he had received the money of Mr. Phillips, whether this Mr. Speed was able, whoſe name you have heard mentioned, and who is repreſented as a friend of Mr. Phillips, he ſaid that what with ſeizing on the effects of Mr. Broughton and Mr. Speed, and what he had paid he believed there was about a year and half paid.

Gentlemen, if this ſort of thing is ſo introduced, whether he had a hand in borrowing money with theſe people, whether he had a hand in ſpending money with theſe people, or whether falling into theſe kind of indifferent ſituations, made him ſo indifferent as to what paſt on money matters, as not to know what he was about, I dont know: but under all the circumſtances of the caſe, it is extremely to be lamented, that a noble Lord ſhould be under the neceſſity of borrowing money in this manner; and I do moſt unfeignedly lament that in the performance of this duty, I am called upon to make theſe commentaries: and Gentlemen, I hope that you will not ſuppoſe that I impute it to a miſrepreſentation of the thing intentionally; but it is poſſible that Lord Falkland might have transferred that part

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of the tranſaction to one which belonged to another, in the confuſion of the moment; and that which will ſtrengthen my remark is, namely, the indifference of having the deed read: in ſhort, the indifference to every thing but that of having his immediate wants ſupplied; and certainly it is no ſtraining of the point to ſuppoſe that the man that carries this indifference about him, may have made him incapable of recollecting with correctneſs, any thing that paſſed.

And that there was ſuch indifference as to what paſſed at the moment, ſo that they have only an incorrect view of it, will be evident, from Mr. King repreſenting one of thoſe that came there for the purpoſe of ſigning the deeds, as a child ſeven or eight years old; one who was the clerk of the attorney. Mr. Gillham, who attended with another clerk of Mr. Gillham, for the purpoſe of ſeeing this tranſaction witneſſed. Therefore you ſee the dreadful ſituation they put Mr. Gillham into, was he not capable to bring theſe witneſſes forward before you.

Gentlemen, this tranſaction took place in February, 1792, and this indictment was preferred only laſt September; more than two years and a half had elapſed from the time the tranſaction took place, before it ever entered their imagination to indict or proſecute Mr. Gillham for having violated any Act of Parliament; and which in this caſe I ſay is a good Act of Parliament, and one for which every man that is liable of falling into the hands of uſurers, will be glad to ſee it employed as it ought.

Gentlemen, this Mr. Gillham had done buſineſs for Mr. Phillips on various occaſions; Mr. Phillips at this time had ſome money by him; Mr. Gillham was applied to by Mr. King or Mr. Livingſton, the broker, I dont know which, upon this tranſaction, which is the ſubject

of your preſent enquiry. Mr. Gillham applied to his client Mr. Phillips, to know whether he would take theſe annuities that were propoſed: and Mr. Neale writes this letter to Mr. Gillham, by the authority of Mr. King repreſenting that my Lord Falkland was entitled to an eſtate of 900l. a year, in the pariſh of Minſter, in the Iſle of Thanet. This gentleman wanted to have a ſecurity; ſeven years purchaſe was the thing they propoſed, and it was agreed upon: for Gentlemen, you are to take notice, that all this was an attempt on the part of theſe perſons to defraud Mr. Phillips of his money, indifferent whether the ſecurity was good or bad. After which Mr. Phillips advanced his money 24,0l. and except the paying of a year's, or a year and a half annuity, he has loſt the reſt: Mr. Delves Broughton is gone abroad; Mr. Speed, the Member for Huntingdon, cannot be much leſs than 51 or 52, and where he is now God Almighty knows: this much we know, that he does not appear every night to take his ſeat in the Houſe of Commons; nor does any one tell us how this unfortunate man Mr. Phillips, is to get back a little of his money, of which I ſay he has been plundered by theſe perſons. Now that being the caſe, and theſe being the facts, there has been proſecutions commenced againſt thoſe who were the leaders in this ſcene of impoſition: they have endeavoured to ſet them aſide by affidavits; and one great feature of the contradiction is this, that they repreſent in that affidavit, as if that tranſaction of negociating and ſettling finally the buſineſs, took place at one and the ſame time; that every thing was the buſineſs of one tranſaction at one viſit, and no more—that is what we ſay: Mr. Gillham was there, and only there at five o'clock: he was

from

from twelve, to the time of dining, with a party at home; nor did he ſtir out till five o'clock to go on this errand.

Gentlemen, there is alſo another fact to which I might call your attention: if this gentleman got this 322l 10s. what did he do with it; he keeps bankers books, (and although I believe I ſhall not be able to make them evidence in this cauſe) they will prove that he receives the exact amount of his bill. It is my duty to offer it you, though perhaps you cannot receive it. But if on the firſt of February, Mr. Gillham received 322l. 10s. in Bank bills and money, I aſk what became of it; I can immediately prove that that night the amount of the money for drawing the deeds is down in his books between 90l. and a 100l.

But Gentlemen, let me recall to your mind, that the enquiry is, whether Mr. Gillham on the firſt of February, 1792, received 322l. 10s. for procuring as a gratuity and reward; or for ſoliciting and procuring the loan, and for the brokerage of 2450l. There is not a word about the deeds in this indictment; therefore from the facts I have ſtated to you, you ſee when they lay their tranſactions in this artful way, how difficult it is for a man to defend himſelf againſt a ſet of men; and to get rid of which they inſtitute this proſecution againſt Mr. Gillham.

Gentlemen, ſee how intereſted they are in this proſecution of Mr. Gillham; and when Mr. King tells you that he adviſed that thoſe indictments againſt my Lord Falkland, and others for a conſpiracy, ſhould be tried before this; how is it poſſible to believe him, when he joined twice in an affidavit to put it off.

Gentlemen, you ought to attend when men ſwear to, how they ſwear; and as this leads to the evidence of Mr. King, I take the liberty of ſaying that you ought to give

credit on earth to what he ſwears, in the manner he ſwears it, acknowledging that he has no religion.

Gentlemen, I do not deſire you to diſbelieve Mr. King on any other tranſaction of his life, unleſs it is of a ſort that may lead you to ſay that you cannot ſafely give him credit on it.

Gentlemen, what has he done in this court? is a man to take any thing that is put into his hand and ſalute it, and is that to paſs for the ſolemnity of an oath? for in that manner Mr. King puts it. I ſubmit myſelf that he has put the ſolemnity of his taking the oath on the ſcore of religion; and confident I am that no man can with ſafety rely on what he ſwears under ſuch a ſanction, and in the manner he judges of religion as Mr. King does.

Gentlemen, I care not a farthing where he was married, I have nothing to do with the place where he was married, but when he ſtates to you that he was not born a Chriſtian, a Chriſtian is the higheſt ſtile of man, he tells you he is a Chriſtian. Gentlemen, I take it that what Mr. King has ſtated authorizes me to make theſe obſervations, and if it was only for himſelf perſonally I would not care a fig for what he has ſaid. I am not to be terrified by him; he ſays, I never was chriſtened. I never was baptized; really this is a new method of becoming a Chriſtian. What is the ceremony? he tells you there was no occaſion for it. I dont kndw whether he will not come and ſay he is a Mahometan tomorrow, and then turn round again to another religion.

Gentlemen, I think my noble lord ſaid there was no ground to reject him as a witneſs; but let me aſk is there not enough for you to diſbelieve him as a witneſs? is there enough for you to believe him? will you permit any man to call himſelf a Chriſtian, to ſwear on the four Goſpels of God, who has not gone through that ceremony which every

one

one of you have gone through, I mean that of baptiſm? certainly not; for if baptiſm is not the way to become a Chriſtian I know not what is. Take notice, Gentlemen, alſo, that this is a man who admits himſelf to have been born of the Jewiſh faith; that faith is ſo totally contrary to Chriſtianity that they can not exiſt in the ſame breaſt; and what ground have we for believing a man has renounced that faith except we have more than his bare word for it.

Gentlemen, with theſe obſervations I take the liberty of ſtating his evidence, and on that ground I think I may venture to deſire of you to weigh with great caution every thing you heard of Mr. King, repreſented under that ſanction which I have been ſpeaking of, and in the way he has treated that ſanction.

Gentlemen, what has he ſworn? why he has ſworn to the tranſaction in ſuch a way that if you can credit it, it is enough to make you believe this, that Mr. Gillham did inſiſt on taking this money; but he admits that he had money; I believe there might have been a converſation at one time or the other reſpecting the ſum that has been paid. I will prove that King had nearly three hundred pounds of the money that theſe gentlemen paid him by way of premium, and if I prove this, then the caſe is ſettled. Therefore the point I wiſh you to attend to is this; my Lord Falkland attended to the main object the getting poſſeſſion of the money; Mr. King himſelf tells you that nobody cared about reading the deeds; he knew very well it would ſignify nothing to this poor unhappy man, this poor coal-merchant, and at preſent he has got nothing only one year and half of the annuity; therefore I really ſubmit it to your conſideration, whether it is not fair to ſuppoſe that my Lord Falkland did not know how it was to be ſettled between Mr. Gillham

Gillham and Mr. King, and that then Mr. King very artfully throws it all upon Mr. Gillham; for that he got a ſum of money for this is plain from his evidence; and then, after two years and half they come and indict this man, which certainly is a very great hardſhip, becauſe if they had done it then, he might have got people to have told where he was at every part in the day, which can hardly be ſuppoſed practicable at this diſtance of time.

Gentlemen, can any one of you tell where you were on the firſt of February, 1792? can you tell where you was on the firſt of February in 1793 or 1794, or even in 1795, only three weeks back? I am not to be terrified by Mr. King.

You ſee Gentlemen, that in the manner in which I put this caſe, I do it from an exceſſive anxiety, and to ſay no more harſh things of my Lord Falkland than I am obliged to do; for no man more reveres the nobility of this country than I do; but noblemen muſt be treated like other men when they put themſelves into ſuch ſituations, and certainly it is not becoming his ſituation to go and take the money of Mr. Phillips; and they have put me in a ſituation very unpleaſant indeed for me to ſoften his conduct in the argument. I wiſh you extremely, if you can, to find out, from the repreſentation of the caſe to day, and the affidavit which has before been made, how it has happened; for the affidavit and the repreſentation of the caſe to day differ very materially, and the only evidence beſides my Lord Falkland, which as I have already obſerved, is at variance with the affidavit, is the evidence of Mr. King, under the ſanction of what you have heard. Gentlemen, it is not a ſecure and ſafe way of adminiſtering juſtice to rely on ſuch teſtimony, and my Lord Falkland has alſo this in common with the others, to protect himſelf againſt the indictment for the conſpiracy,

which

which have been preferred againſt them, and which they have put off the enquiry by affidavits of the abſence of a material witneſs, and let this trial although the indictment was laſt preferred to come firſt before the court. Thus when they have artfully put off this trial of themſelves from time to time, they come with an indictment againſt the attorney, hoping thereby, if they can convict him, to protect themſelves.

Gentlemen, what is this proſecution for? if it was for the ends of public juſtice it was a great while before it began to operate on their feelings, at the diſtance of two years and half before they came forward. I do not ſay that Mr. Gillham could not give evidence againſt my Lord Falkland and Mr. King, but they being under the preſſure of the proſecution for a conſpiracy againſt Mr. Phillips, in order to deter Mr. Phillips from going on with that proſecution they inſtitute this indictment againſt Mr. Gillham; but Gentlemen the way in which I have taken the liberty of putting it, you ſee for what purpoſe this preſent proſecution was inſtituted; that they did it after they were under the laſh of the law to throw a ſtigma againſt Mr. Phillips and Mr. Gillham both, to deter them from going on with the proſecution, or if they did go on with it, ſtill with ſuch a cloud that they ſhould not be able to convict Lord Falkland and Mr. King.

Gentlemen, there is another circumſtance which is extremely worth your notice. As well as this indictment againſt Mr. Gillham, they have alſo indicted him for perjury, and we are now trying that indictment againſt him for taking the money; in the diſcuſſion of this indictment if they therefore can bring you to believe their evidence,

and

and if they can alſo convict him a ſecond time, the juſtice of the country will be defeated.

Lord Kenyon. I doubt that very much: *non conſtat*, but this conviction may be on the ſingle oath of a ſingle witneſs; on an indictment for perjury, a ſingle witneſs will not do without ſome exalted proof; ſuppoſing this man convicted on this indictment, this conviction might have wholly proceeded from the evidence of a ſingle witneſs; and if this is traced to that ſource, it is traced to a ſource that will not ſupport an indictment of the other crime.

Mr. Mingay. I acquieſce perfectly in the opinion that my Lord has given; I am not ſaying what would be the caſe if this man was convicted on this indictment, but I am arguing what they on the other ſide thought would be the caſe; and they themſelves have repreſented the tranſaction as paſſing not exactly as they have repreſented it to day. Mr. Gillham has poſitively ſworn he did not take the money; on that affidavit they have indicted him for perjury: and whether they are right or wrong in their conceptions of the event of this trial, yet if they thought by diſcuſſing the ſubject firſt in this cauſe, that they ſhould eaſier gain the ſecond cauſe, it ſhews the motives from which they acted; poſſibly it may make no difference in the diſcuſſion of the other enquiry; however that is, what I am preſſing to you is, that they thought ſo; they were weak and wicked enough to think that if they could convict Mr. Gillham on this indictment, and ſucceed againſt him alſo in the indictment for perjury, then they would be quite ſafe as to the proſecution againſt themſelves for the conſpiracy. Why did not they try the indictment for the conſpiracy, if the evidence of Mr. Livingſton is true; they only wanted the evidence of Mr. Livingſton, to ſhew that the

circumſtances

circumſtances and facts of the caſe took place in the manner he has ſtated.

No, Gentlemen, they wanted to get before hand in the conviction of Mr. Gillham on this indictment, and then afterwards to go on to the perjury, and ſo to diſqualify him from giving evidence on the indictment againſt them for the conſpiracy, that is the only view in which I can ſee this cauſe, and that is the only view in which I expect you will ſee it.

Gentlemen, I ſhall be under the neceſſity of laying before you ſeveral pieces of evidence; and indeed it is very right I ſhould. This gentleman, Mr. Gillham, the defendant in this cauſe, is a man of character—he is an attorney on the rolls of the Court; and if he is found guilty of this, he would continue to exiſt in that character no longer; therefore it is an enquiry of the utmoſt importance to all the parties concerned, If Mr. Gillham is acquitted, then they dread the conſequences of the proſecution commenced againſt themſelves; and if Mr. Gillham is convicted, he is a ruined and undone man.

Gentlemen, it is hinted to you that Mr. Phillips threatened to take away Mr. Gillham's life if he did not inſtitute the proſecution for the conſpiracy, but your belief of that circumſtance muſt go on the argument of the credit you pay to Mr. King, taking into your mind the manner in which he gave his teſtimony, and the ſanction under which he gave it.

Gentlemen, I do not in the leaſt animadvert on any other part of his conduct, but what has paſt before you to day, and you have no right in conſidering this cauſe to enquire into any other part whatever, except what may have fallen under your own knowledge and obſervation.

Gentlemen, Theſe are the obſervations I have felt it my duty to make on the caſe; I will now make an obſervation or two upon the evidence I ſhall call to you, and trouble you no longer.

Gentlemen, the queſtion is, whether Mr. Gillham has taken 322l. 10s. for procuring and for the brokerage of the ſum of 2,450l.? I ſay he has done no ſuch thing, and that by what their witneſſes have ſhewn, took it for the intereſt and the premium, which is a very different thing than that that is the charge now before you. This paper that I hold in my hand they know the contents of it, becauſe they know, in another ſtage of the buſineſs, how it is, and how it has been inſiſted upon.

When we were firſt charged with taking 322l. 10s. for procuring 2,450l. it occurred, how is it poſſible that that money could be divided amongſt the parties, in conformity with the contents of this paper, which contains the numbers and value of the notes that made up this ſum of 2,450l. for by no poſſibility of diviſion whatever could this money have ever got into that courſe; for the firſt item is, and to which they have ſigned a receipt for the money; the firſt item is No. 623, Bank note, one thouſand pounds; if you deduct one thouſand from 2,450, there is 1450 left; take away the thouſand pound Bank note, and it is utterly impoſſible to divide this money. In order to account for this before, you have the evidence of Mr. King; he ſays, I opened my drawer, and out of that drawer I gave them change for a thouſand pound Bank bill, ſo that hereby was an end of the myſtery. If this had not been ſworn, the whole would have ſtood as nothing, for it would been ſeen utterly impoſſible that the money

ney could have been divided without that had been the caſe.

However, Gentlemen, you ſhall ſee this paper, and you ſhall form your own concluſions on it; form what concluſions you think ought to be formed on it.

Gentlemen, the whole of the evidence that I ſhall call to you will be the two witneſſes to the deed, that went with Mr. Gillham. I will take the child, as Mr. King called him, firſt. It was a young man, who was on a viſit with Mr. Gillham, and who is now near 20 years of age. This is the young man repreſented to you as being an infant, and that Mr. King told you he took on his knee, and uſed him in this ſort of way, as you would a child; and if I diſprove that fact, which I ſhall, by producing the young man before you, what credit can you give to Mr. King's evidence,

In regard to the next fact that Mr. King ſtated, that he was put into the Hall, as not a proper companion for the company; he will tell you alſo it was no ſuch thing, for he was in the room with the company all the time; and he will tell you that Mr. Gillham dined at home that day, and went out at three to execute the deeds. I ſhall then call to you a gentleman of the name of Houlditch, who is, I underſtand, of Gower-ſtreet, Bedford-ſquare. I underſtand that it is probable you may hear from him, that about the beginning of the laſt November, that he was having ſome converſation with my Lord Falkland, in which my Lord Falkland told him, that while he was ſigning the deeds, reſpecting the eſtate in the Iſle of Thanet, he was all in a tremble, as he knew he was doing wrong; that my Lord Falkland was in want of money, though he ould not have done it but that John King perſuaded him

to do it; and King told him, that if he, Lord Falkland, was called upon for the money, King would get him through; and Lord Falkland informed him that King was villain enough to bring him into ſuch a buſineſs as ſigning theſe deeds.

Gentlemen, here let me pauſe. If I call a man of character to you, as Mr. Houlditch certainly is, who will tell you that that noble Lord has told him what paſt in the manner that I have ſtated it to you, that he repreſented the agitation that he felt at doing the thing, at doing that which he knew to be a wrong thing; if this is the fact, what credit, what ſafety can you rely on the teſtimony which has been given before you?

Gentlemen, I do not wiſh, and I beg for God's ſake, that if you acquit Mr. Gillham that you do not convict Lord Falkland; I don't wiſh that. He is a young man, and he may perhaps view things at one moment in a manner that he does not at another; but after he has got the money, after he gets indicted for a conſpiracy, after he gets into a ſituation in which he is called upon to protect himſelf by all poſſible means, you will not wonder if he ſhould view circumſtances not ſo accurately as they paſſed, ſo as now he may not be able to tell you whether it was King or Gillham that he gave the money to.

Gentlemen, Is it probable that King ſhould come and tell him that Gillham wanted 322l. 10s. and as Mr. King informs you, that he had only 50l.? Is it probable that the Attorney that is to draw up the deeds is to get 322l. 10s. and he only 50l.? Is it poſſible that any body would have given that money for that purpoſe? No. Inſtead of Mr. Gillham being the middle man in this tranſaction, Mr. King was the middle man; he was the man to whom the

affair

affair was intruſted; he was the man with whom Lord Falkland and the others were connected, and not Mr. Gillham.

Gentlemen, Then as to Mr. Livingſton, I have not made an obſervation on him, he is a poor old man, diſtreſſed, and has been a bankrupt; it is impoſſible that a man of that ſort can have a perfect recollection of what paſt at the time; from that, therefore, and many other reaſons, I need not enlarge on this teſtimony.

Gentlemen, I feel a great anxiety that Mr. Gillham ſhould have a fair attention given to his caſe; I don't wiſh to puſh the circumſtances againſt the noble Lord; I am extremely ſorry that any thing ſhould preſs a noble Lord of his rank to be in this ſituation. I lament it as much as he can do; I have done my duty, and I am ſure you will do your's; it is a painful taſk, but it is one that you muſt perform, however diſagreeable. I will call my witneſſes, and put in this document, and then I beg you will do this, ſee whether the crime proved is the crime charged, and ſee whether you can conſign, to eternal ruin, the Defendant, under circumſtances I have ſtated to you.

Lord Kenyon—This ſum of 322*l.* 10*s.* is a very large ſum, out-running all bounds whatever, it is for the Jury to conſider on the whole of the caſe, whether any part of the ſum is coverable with any thing elſe but brokerage, and if there is no bill delivered for the deeds, I cannot refer any part for them; and when I am told that a groſs ſum of 100*l.* was given on that account, I am to ſuppoſe it is only a colour. I ſhall certainly leave it to the gentlemen of the Jury, for them to ſay, whether or no the whole of this ſum was not taken by Mr. Gillham in the character of procuring money.

(A memo-

[A memorandum read of the money tranſaction, and a letter that Mr. King's clerk ſent to Mr. Gillham.]

Lord Kenyon.—I ſuppoſe this letter goes to impeach the credit of ſome of the witneſſes, or elſe, I dont know how it gets into the cauſe.

Mr. King.—Mr. Neale wrote that letter without my authority, I never heard of it till now.

THOMAS SANDERSON—Sworn.

Mr. Mingay.—How old are you? A. I was nineteen the 19th of February.

Q. Have you got the certificate of your age? A. I have it, I did not think of bringing it here. I was born the 19th of February, 1776.

Q. Where was you born? A. In Devonſhire-ſtreet, Queen's Square, No. 16.

Q. How long has your father been dead? A. My father is not dead.

Q. Where were you at ſchool? A. At Blackheath, in Kent.

Q. What is your father? A. He does not follow any buſineſs, he was an attorney but has left off practiſing.

Q. Where are you now? A. I am a clerk to Meſſrs. Hubbard and Free, at Leiceſter.

Q. Were you in town in February, 1792? A. Yes, I was.

Q. Were you the firſt day of February, 1792, in London? A. Yes, I was.

Q. Where were you then? A. At Mr. Gillham's on a viſit.

Q. Where does Mr. Gillham live? A. No. 9, Brook-ſtreet, Holborn.

Q. Did

Q. Did you go with him any where on the firſt of February, 1792? A. Yes, to Mr. King's in Burlington-ſtreet.

Q. Who did you go with? A. With Mr. Gillham, and O'Brien, his clerk

Q. Do you recollect what time of the day it was? A. It might be between four and five in the afternoon.

Q. What did you go there for? A. I went chiefly for curioſity.

Q. What did Mr. Gillham go there for? A. He went with ſome annuities, and I was to ſee them atteſted, to ſee them witneſſed.

Q. When you came to Mr. King's in Burlington-ſtreet, who did yon find there? A. I went into a large room.

Q. Who were there? A. There were Lord Falkland there and Mr. King.

Q. Who elſe were there? A. Mr. Speed, Mr. Livingſton, Mr. Broughton,

Q. Were the deeds produced there? A. Yes, they were.

Q. How many deeds? A. I think I ſaw three parchments.

Q. Were they ſigned? A. Yes.

Q. Were they atteſted? A. Yes, I atteſted them myſelf, me and Mr. O'Brien.

Q. Did you ſee any money paid? A. Yes I did, but I did not exactly take notice what money.

Q. After the deeds were ſigned and money paid, did you continue in that room or quit it? A. I continued ſome time there.

Q. How

Q. How long did you continue in the houſe? A. That I did not exactly notice.

Q. Who went out of the houſe firſt? A. I went with Mr. Gillham and O'Brien, all three of us went out together.

Q. Did you all continue in the houſe together? A. Yes.

Q. Did you go away together? A. Yes, we went away together.

Q. While you were there did any particular perſon go out of the room? and who was that perſon? you deſcribed Mr. King, Mr. Broughton, Mr. Livingſton, Mr. Speed, and Lord Falkland to be in the room when you went in, while you was there did any particular perſon quit the room? A. Mr. King quitted the room once or twice.

Q. Did nobody elſe quit the room? A. Yes, Mr. Broughton.

Q. Nobody elſe quit the room? A. Yes, I think Mr. Speed

Q. Did any body elſe quit the room? A. I do not remember.

Lord Kenyon.—Have you a correct memory of what paſſed? A. Yes, of what I have ſaid till now.

Mr. Gibbs.—Do you know whether Lord Falkland quitted the room? A. I am ſure that Lord Falkland did not quit the room all the time I was there.

Q. Who remained in the room with Lord Falkland the whole time? A. There was O'Brien, he ſtaid along with me. I ſat in the room on a large ſofa covered with morocco.

Q. You are ſure Lord Falkaland was in the room the whole time? A. I think I am poſitive of that; he walked to and fro the room with the handkerchief to his face ſeveral times.

Q. And

Q. And you are ſure he was not out of the room the time you was there? A. I am ſure.

Q. Are you ſure, that you all three quitted the houſe together, you, Gillham, and O'Brien? A. Yes, I am.

Q. How ſoon did you quit the houſe after the deeds were ſigned? A. I really did not exactly take notice of that; as to the time, it may be a good many minutes. I dare ſay. I did not take particular notice.

Q. Are you ſure that during the time you were there, that my Lord Falkland never quitted the room? A. I have thought of it often ſince, and I think he did not.

Q. How came you to take ſuch particular notice of Lord Falkland? A. I was told it was Lord Falkland, and I took particular notice of him.

Q. Do you know who the money was paid to? A. I think to Mr. Speed.

Q. Do you know whether Mr. Gillham was there that day before? A. I do not.

Q. Do you know where he was in the courſe of the day? A. I do not, I ſhould think he was at home.

Q. Do you know Mr. King at all? A. Yes.

Q. Did he put you on his lap? A. Yes.

Q. Did he kiſs you? A. No.

Q. Was any thing given to you? A. Two guineas I think.

Q. Did Lord Falkland give you five guineas? A. No. No ſuch thing; Mr. O'Brien had three, and I had two; and theſe two were puſhed on the green-cloth by King.

Q. Did Mr. King ſay any thing to Lord Falkland in your favour, or deſire him to give you any thing? A. I am not clear of that. The firſt time I ſaw Mr. King, he aſked me if I had a watch; I pulled out my watch and ſhewed it him.

He ſaid, when the buſineſs was concluded, I ſhould have a good deal.

Q. Did he ſay to Lord Falkland, you muſt give *this little boy* five guineas? A. No, I am ſure he did not ſay that.

Q. When you were there, was the money divided at all? A. No, it was not.

Q. You are ſure Mr. Gillham came away out of the houſe, as ſoon as you? A. Yes, I followed Mr. Gillham.

Mr. Fielding.—Have you grown lately? A. Yes; I don't know how much preciſely.

Q. What time did you leave ſchool at Black Heath? A. It was at that time in the holidays, and I went home to Mr. Gillham's.

Q. That you call your home? A. It certainly was my home.

Q. Who paid for your ſchooling? A. Miſs Sanderſon, of No. 22. Wimpole-ſtreet.

Q. Does Miſs Sanderſon live there? A. Yes.

Q. Where did ſhe live at that time? A. At Conduit-ſtreet.

Q. What buſineſs was ſhe of? A. A gentlewoman of independent fortune, who never followed any buſineſs.

Q. Then you were at home for the holidays? A. Yes.

Q. You had never been about any buſineſs with Mr. Gillham before? A. I had ſeveral times called at Mr. Gillham's other clients.

Q. What may your mother be? A. My mother is in Brook-ſtreet, Holborn, at Mr. Gillham's.

Q. What is your father's name? A. James Sanderſon.

Q. When

Q. When did you ſee him by that name? A. It is a conſiderable time ſince.

Q. How long ago? A. I do not exactly remember.

Q. Tell me at any one time that you ever ſaw any man that you call father, beſides this man before me, Mr. Gillham.—Your mother lives at the houſe of Mr. Gillham? A. Very well.

Q. In the morning of the ſame day, you did not go to Mr. King's houſe with Mr. Gillham, on the firſt of February? A. I do not remember it.

Q. Were you taken to his houſe to be an atteſting witneſs, at this time? A. I was.

Q. And you went with Mr. Gillham for that purpoſe, to be an atteſting witneſs to theſe deeds at the houſe of Mr. King? A. I believe it was.

Lord Kenyon.—Did you know any of the parties, Lord Falkland, or Mr. Speed, or Mr. Broughton? A. No; I believe I might have ſeen Mr. Speed.

Mr. Fielding—Who carried the deeds to the houſe of Mr. King? A. That I did not exactly notice. I ſhould ſuppoſe that Mr. O'Brien did.

Q. When did you go to ſchool again after this time? A. I did not go after this time.

Q. But how long have you been with theſe two gentlemen Attornies, at Leiceſter? A. Juſt three months.

Q. How long have you been out of town? A. I continued ſome time at Mr. Gillham's houſe, about a month or more; and then I went to Nottingham.

Q. Young man, tell me how long ago it is ſince you were aſked any queſtions at all, relative to this buſineſs? A. I did not notice.

Q. I am not aſking you as to a month, two months, or

three months? A. I did not notice it when I was firſt aſked.

Q. How long ago is it that any thing was brought to your memory, reſpecting this buſineſs? A. I was deſired when I came home, to take particular notice of what paſſed relative to the ſigning of the deeds.

Q. Why, when you had ſigned your name as a witneſs, that thing would ſpeak for itſelf, why ſhould they deſire you to have taken particular notice of what paſt? A. I cannot tell you now why.

Q. It would be difficult indeed, to aſſign a reaſon for it; but, however, that was the caſe? A. Yes, I believe it was.

Q. Do you recollect how you were dreſt at that time? A. I cannot ſay I do.

Q. That has eſcaped your memory too—How was Mr. King dreſſed at that time? A. I don't remember.

Q. Did you go out of the room where the deeds were ſigned? A. I never went out of the room to the beſt of my recollection.

Q. Was all the buſineſs done in one room? A. The ſigning of the deeds were.

Q. Was all the buſineſs from your coming into the houſe, till the moment you went out of the houſe, tranſacted in one room? A. No, I ſay Mr. King went out of the room.

Q. What did he go out of the room for? A. That I did not notice; I was not precautioned.

Q. Have you ſeen Lord Falkland ſince, any where? A. Yes.

Q. Where may you have ſeen him ſince? A. At Mr. Grey's chambers.

Q. Mr. King did chuck you under the chin, and call you

you a pretty boy, or ſomething of that ſort? A. Yes, I think he did. He did one time when I ſaw Mr. King, I don't know whether he did at that time.

Q. Did he do it at that time or no? A. I do not remember really.

Q. You had two guineas? A. Yes, and I am very ſorry I ever had them.

Q. How came O'Brien to have three guineas? A. Becauſe he was the clerk.

Q. Was it not underſtood that you came there as the boy of Mr. Gillham, and therefore ſomething was to be given you? A. No, I do not remember that indeed.

Q. To *Lord Falkland*—Have you any recollection of that young man? A. No, I have no recollection of that boy; the boy that I gave the five guineas to was conſiderably leſs, a child.

Q. To *Sanderſon*—Will you ſay that Lord Falkland did not give you five guineas? A. No, never.

Q. It is not neceſſary to aſk this boy any thing more, we have heard enough.

WILLIAM O'BRIEN—Sworn.

Mr. Raine.—Were you on the firſt of February, 1792, clerk to Mr. Gillham? A. Yes, I was.

Q. Do you remember going with Mr. Gillham and the young man who was juſt now in court, to Mr. King's in Burlington-ſtreet? A. We did reſpecting ſome annuities.

Q. What time did you go there? A. It was between four and five in the afternoon, as near as I can recollect at this diſtance of time.

Q. Do

Q. Do you know whether Mr. Gillham had been out before to Mr. King's that day? A. No, I cannot ſay as to that.

Q. Who were preſent when you got to Mr. King's A. There were Mr. King, Mr. Livingſton, Mr. Speed, Lord Falkland, and Mr. Broughton.

Q. They were the perſons preſent? A. Yes.

Q. Did Mr. Gillham pay the money that was to be paid for the annuities? A. Mr. Gillham paid the 2450l. to Mr. Speed by the direction of Lord Falkland and Mr. Broughton.

Q. Was there any other perſon there except the young man that was in juſt now? A. No other perſon but Maſter Sanderſon.

Q. You ſay the 2450l. was paid to Mr. Speed? A. Yes, by the direction of Lord Falkland and Mr. Broughton. There was a memorandum which they ſigned, that I drew up reſpecting the notes and money.

Q. The deeds were executed of courſe? A. They were.

Q. Did you ſtay while the deeds were executed? A. I did, and my Lord Falkland and Mr. Broughton were in the ſame room.

Q. When that was done, did any one go out of the room? A. Mr. Livingſton, Mr. King, and Mr. Speed withdrew, and Mr. Gillham withdrew.

Q. Mr. Speed is out of the country, I dont know whether you know it? A. I have heard it.

Q. Did any one but theſe perſons you have mentioned, leave the room? did Lord Falkland leave the room during the time you was there? A. Not during the time that we were there.

Q. It

Q. Is it true, that you and Maſter Sanderſon were ſent out of the room to be in the hall? A. I never went out of the room after I firſt went into it till I came away.

Q. While you were there was the money divided between Lord Falkland, Mr. Speed, and Mr. Broughton? A. It was not.

Q. While you remained there was no diviſion of the money? A. There was none.

Q. And you ſay that you remained there the whole time that Mr. Gillham remained there? A. Mr. Gillham and I and Maſter Sanderſon came away together.

Q. Was there any change given for any of theſe notes that Mr. Gillham gave to Mr. Speed? A. Not in my preſence, and I was in the room the whole of the time.

Q. Are you poſitive that you remained in the room during the whole time that Gillham was in the houſe? A. I am very poſitive.

Q. Are you very poſitive that during the whole of that time that Lord Falkland did not quit the room? A. I am poſitive.

Q. Did you ſee Lord Falkland give Mr. Gillham any money? A. I never ſaw Lord Falkland have any money.

Q. Did you ſee Lord Falkland or Mr. King make any calculation of what five per cent. would amount to? A. No, I did not.

Q. There was no enquiry as to the expences of the deeds? A. Not in that room.

Q. Were you in any other room? A. I was not.

Q. Can you tell what paſt in the other room? A. I cannot; only what Mr. Gillham told me, when he went out, that he had received a 100l. for his trouble.

Q. What

Q. What had you? A. I had three guineas.

Q. Who gave you three guineas? A. I think Mr. King took it from the heap that lay on the table; the way it was introduced was, it was for a ſeal, Maſter Sanderſon had two, and I had three to get a ſeal.

Q. Had Mr. Gillham attended before on this buſineſs, or had you been with him? A. I had not been with him before.

Q. Were theſe writings read over? A. They were in part.

Q. Who read that part? A. I did.

Q. How happened it there were only a part read? A. I was interrupted by a ſervant of Mr. King's entering the room ſaying the dinner was ready, ſome of the parties then deſired, the deeds might be read no further.

Q. Who deſired the deeds to be read? A. Mr. Gillham deſired the deeds might be read, and as they would not permit them, he ſaid he muſt inſiſt on explaining the the nature of the ſecurity.

Q. Did he explain it? A. He did, for what lives, for what conſideration money, and how they were charged.

Q. Did he explain on what eſtates they were ſecured? A. Lord Falkland's eſtate at Minſter, in the Iſle of Thanet, and on Mr. Speed's eſtate.

Q. Was Lord Falkland in the room at this time? A. He was in the room all the time.

Q. Was it explained in Lord Falkland's preſence that the ſecurity in the deeds was charged on Lord Falkland's eſtate in the Iſle of Thanet? A. It was.

Q. Pray did Mr. King at any time take this boy on his lap and dandle him, and chuck him under his chin and kiſs him? A. No, he did not.

Q. Was

Q. Was he young enough to be treated in that way? A. I cannot tell.

Mr. Shepherd.—You was clerk to Mr. Gillham at that time? A. I was.

Q. Did you ſerve your clerkſhip with him? A. I did.

Q. Have you always lived with him? A. I have not, I was away about 12 months in buſineſs for myſelf.

Q. How long before that had you executed any deeds with Mr. Gillnam for any body elſe? A. Very recently I had for Mr. Speed.

Q. I do not aſk you about Mr. Speed; for any body elſe? A. I cannot aſcertain the time; frequently.

Q. Do you recollect any other tranſaction of this nature? A. Yes, I do.

Q. Did you make any minutes at the time? A. I did not.

Q. When were you firſt deſired to recollect all that had paſſed? A. About three or four months ago.

Q. Upon your oath was it not after an affidavit had been made by Lord Falkland? A. Yes, It was.

Q. Who carried the deeds to Mr. King? A. Mr. Gillham took the deeds, and I and Sanderſon went with him.

Q. What room were you ſhewn into at King's houſe? A. Into a little room at firſt, and then into a parlour.

Q. What was done in the little room? A. Nothing.

Q. Did you ſee my Lord Falkland and Mr. Broughton in the little room? A. I did not.

Q. You was only ſhewn in there to wait till they were ready? A. No.

Q. Was the money paid down before the deeds were executed? A. No, the deeds were executed firſt.

Q. Did any thing paſs in that room about Mr. Gillham's expences? A. No, nothing at all.

Q. Who went out of the room firſt? A. Mr. Speed ſaid to Mr. Gillham, walk this way, and then Mr. Speed, Mr. Gillham, Mr. King and Livingſton went out together.

Q. Did they return into the ſame room? A. They did.

Q. Did they return altogether? A. No, not altogether; Mr. Gillham and Mr. Speed came in firſt, and afterwards Mr. King and Mr. Livingſton.

Q. When was it the three guineas were given to you, and two guineas to the lad? A. Before they went out.

Q. Who were the three guineas given to you by? A. I think by Mr. King.

Q. You have told us that this lad was too old to be treated as a child, and you ſaid, he, Mr. King, ſaid, or did nothing treating him as a child; he made uſe of no fondling expreſſions, or fondling actions to him? A. No, he did not; he ſaid, he had promiſed this child a ſeal, and he ſays, have either of you got a ſeal.

Q. How long have you lived with Mr. Gillham altogether, from the firſt time you ſerved your clerkſhip? A. I went to him firſt in the year 1787, when I firſt was articled to him.

Q. For a twelve months you quitted him? A. I did not quit him till within theſe laſt twelve months.

Q. Where had you lived in the mean time? A. In Staple Inn, Holborn, and in Acton-ſtreet, Gray's-Inn Road.

Q. And in that houſe and chambers you reſided all the time? A. Not all the time, becauſe I was in the Fleet Priſon ſeven months for debt.

Q. Since

Q. Since you have come out of the Fleet Priſon, you have gone to Mr. Gillham again? A. Yes.

Jury.—Is this Sanderſon the ſame boy that was preſent at the execution of the writings? A. Yes, he is.

Q. I hope, my Lord, we have heard enough from this man.

EDWARD HOULDITCH—Sworn.

Q. Where do you live? A. I live in Gower-ſtreet, Bedford-ſquare.

Q. What are you? A. I am a coach-maker, and my manufactory is in Long-acre.

Q. Had you at any time any converſation with my Lord Falkland, relative as to the tranſaction of the annuities, with Mr. Phillips? A. I have.

Q. When was it? A. About the latter end of October, or beginning of November laſt.

Q. What was the converſation? A. Lord Falkland informed me, that he was in very great diſtreſs, that he had ſigned his name to a deed, at which his hand trembled very much, but he was in great want of money at the time; that Mr. King, of Burlington-ſtreet, laid down the plan, and aſſured him at the time he ſigned the deed, that he would bring him through it, or words to that effect; that the proſecutor had drove the parties into a corner without a ſhilling at a vaſt expence: That is, the proſecutor had drove him to a vaſt expence, and, that King, did not mind ſpending two thouſand a year in law, to anſwer his purpoſes; and by that means, to drive the parties to a compromiſe.

Q. Lord Falkland told you that? A. He did—he told

me ſo; and he farther added, and ſhould not that effect their purpoſe; and if that would not do, or eefft their purpoſe, Gillham had received a 100l. for the annuities, and that was more, he was ſure, than was legal for ſuch a buſineſs: I argued with him, but he ſaid, it was more than Gillham ought to receive.

Q. Did he explain what his hand trembled about? A. Yes, he told me ſo.

Q. Did he explain on what account his hand trembled? A. I had heard ſomething to the diſcredit of Lord Falkland, and I did not chooſe to have any dealings with him, and this was the explanation that he gave to me.

Mr Fielding.—This was in October or November laſt? A. Yes.

Q. Did he tell you, that this indictment was preferred againſt Mr. Gillham? A. No.

Q. Is there any thing as a *qui tam action*, in which you are the defendant, and Lord Falkland the witneſs? A. I believe there are. But I did not know who were the plaintiffs, and for which I wiſhed to come into court the day before yeſterday, and they then withdrew the record.

Q. What made you have this converſation with Lord Falkland? A. Becauſe Lord Falkland was in the habits of coming to my houſe and borrowing money of me; and he was various times coming to my houſe and ſaying I muſt go, for I am going to meet ſuch and ſuch people on ſuch d—ned buſineſs.

Q. Are you correct that my Lord Falkland ſtated to you that 100l. had been taken by Gillham? A. He ſaid, if what they were doing did not effect their purpoſes, that they would ſet the annuity aſide, as Gillham having received the 100l.

Lord

Lord Kenyon—Have you been long in acquaintance with Mr. Gillham? A. No. In conſequence of Lord Falkland giving me this information, it led me to make my application to Mr. Gillham to know the truth of it; and I found, on my application, that that was the caſe. In conſequence of that I withdrew from Lord Falkland, and Gillham deſired me to come forward; I told him in public juſtice I would.

Q. When did you firſt communicate with Mr. Gillham? A. Within two or three days of Lord Falkland telling me of the circumſtance.

Q. Did Lord Falkland tell you all the perſons that were engaged in this buſineſs beſides Mr. Gillham? A. No. He mentioned a buſineſs wherein Mr. Gillham, of Brookſtreet, in Holborn, was concerned.

Q. Did he mention Mr. Speed and Mr. Delves Broughton being concerned in it? A. He certainly did.

Q. It is not neceſſary to aſk more from ſuch a man as this.

Mr. FIELDING's Reply.

May it pleaſe your Lordſhip,

Gentlemen of the Jury, I venture to aſſure myſelf that you will forgive me in doing that which I conſider as the eſſential of a diſcharge of a public duty; but, Gentlemen, I will endeavour as much as poſſible to abbreviate the obſervations that I ſhall addreſs to you; I have endeavoured as much as I could to confine myſelf within the common diviſions of a cauſe. On the outſet of this proſecution, I ſaid but little of the offence, I ſaid but little of the offender, and I ſaid but little of this gentleman who has appeared

ed as witneſs on the part of the proſecution, and permit me now to ſay two or three words on that ſcore, becauſe, if I am honoured with your attention to thoſe two or three words, ſure I am you will have a clear conception of the nature of this offence, and the nature of the offender. Mr. Phillips, the perſon whoſe money has been advanced, is quite out of this buſineſs, and if there is not a chance in this buſineſs of Mr. Phillip's being indemnified, I ſhall lament as much as any other man can that he has given his money away; for that he has advanced the ſum of 2,450l. you have in direct teſtimony before you.

Mr. Phillips, therefore, Gentlemen, is to be laid intirely out of the caſe; but it is impoſſible to view this offence, or the gentleman accuſed of it, in any other light than that in which I take the liberty now to place him before you. This go-between, equally indifferent as to the ſecurity of his principal, as to the miſchief of the man who is to receive the money, he looks only to the advantage that he is to derive, according to the ſum of money really negociated; for if this Mr. Phillips had been inclined to have intruſted him with three thouſand pounds, four or five thouſand, or any larger ſum of money, and he could have got the granters of theſe annuities to have taken that money, and Mr. Phillips to have accepted the annuities, however unſatisfactory they might have turned out to Mr. Phillips, he cares not, his end is anſwered, becauſe his profits increaſe.

Therefore, Gentlemen, you ſee that that man contrives that there ſhall be a ſum of money lent; he is ſolicitous for perſons who are to take this money, and in conſequence of one lending, and the other taking the money, he has the advantage

advantage. Therefore you ſee, Gentlemen, the nature of the offence is as I have deſcribed it.

I took the liberty, at the beginning of this cauſe, to ſtate a matter which I muſt call your attention again to now. It is looking at theſe annuities, and ſeeing that they comprize not only the lives of the purchaſers, but alſo of their wives and children. It is impoſſible to ſhut your eyes againſt that which would be an abſurdity to ſtate before you; indeed my learned friend avoided it, becauſe he could not have ſtated it with decency or ſatisfaction to himſelf, namely, that for theſe annuities there was any thing like a fair conſideration given for them; for if theſe men, who granted theſe annuities, had had valuable eſtates, that bargain would have been exorbitant beyond all bounds.

Then, Gentlemen, you ſee the ſituation in which Mr. Gillham ſtands; the way in which Mr. Phillips advanced this money is totally out of your conſideration: but Mr. Gillham's intereſt is firſt to ſeek out men who have money to advance, and then to ſeek out for ſuch as want money, and the more idle, the more thoughtleſs the granters of the annuity are, the more is the premium, and the premium is that which he thinks he ſhall obtain. Is not this common ſenſe? Have I or have I not ſet before you that which is the fair conſideration of the character in which this ſpecies of broker acts? and it has been ſo done in the preſent caſe; I prove this by the very annuities, for he was impoſing upon Mr. Phillips moſt egregiouſly if he took an incomplete ſecurity; and if he thonght that theſe men had eſtates to anſwer according to the charge, he muſt know they were impoſing on themſelves; he, in either caſe, therefore, was behaving in the moſt groſs and enormous way. So far for Mr. Gillham.

Now,

Now, Gentlemen, you will recollect that I took the liberty to ſuggeſt to you, that you would examine this caſe on the evidence which the cauſe itſelf affords. Look therefore into the annuities; conſider a little the character in which Mr. Gillham is acting; conſider the probability of his going on with a tranſaction of that ſort, being intruſted by the man, Mr. Phillips, taking this ſpecies of ſecurity, and compare all theſe things with that which appears on the face of the ſecurity itſelf, and then there will not be an atom of difference in opinion between you and me on this head of the enquiry.

Gentlemen, The main queſtion here is a queſtion of the credit of a witneſs moſt aſſuredly, but in a public proſecution like the preſent, the public muſt always rejoice, whatever the motives may have been of the proſecution, that that end ſhall be obtained, by puniſhment coming on a man where puniſhment is deſerved, in conſequence of the Jury finding him guilty.

Gentlemen, I did think it my duty to tell you, in the opening of this proſecution, that there had been in this cauſe indictments preferred of different deſcriptions, that there had been a variety of agitations on the ſubject. Now look to the caſe itſelf, and ſee what the inference is that ſtarts to your own mind on conſidering the fact.

Gentlemen, They had indicted my Lord Falkland and others for a conſpiracy, and probably enough it is, that when Mr. Phillips came to look to his ſecurity, conſidering what a ſum of money he had advanced, that he ſhould be incenſed, although no ſum of money was ever better laid out than that ſum of money was laid out on an annuity, provided the ſecurities had been good; if they were bad, none but Gillham could be to blame. How then was

Mr.

Mr. Gillham to juſtify himſelf to Mr. Phillips. Gentlemen, Mr. Phillips's complaint could have produced nothing elſe from Mr. Gillham; it could not have produced another anſwer, than that Mr. Gillham ſhould ſay I have been impoſed upon; Mr. Phillips not recollecting this at the time, that the very ſecurity itſelf was to be an annuity on the life of him, his wife and niece, ought to be ſuſpected; a purchaſer of ſuch an annuity as that muſt neceſſarily expect that a larger ſum of money muſt be given for ſuch an annuity than was given in this caſe; and that being the caſe, you ought to ſuſpect the ſecurity. But what anſwer could Mr. Gillham make but, I have been impoſed upon. All this while you will recollect Mr. Gillham had got his fee, and cared not what ſecurity he took. Then it was that it was ſuppoſed by Mr. Phillips that theſe gentlemen had miſrepreſented their ſituation. It could not have been neceſſary ſo to do from the various obſervations I have ſubmitted to you, becauſe if they had been called upon to have given an account of a fair and *bona fide* ſecurity, they muſt have been paid double the money for the ſame annuities upon the terms theſe were granted.

Therefore Gentlemen, you ſee that Mr. Gillham could give no other anſwer to Mr. Phillips than that he muſt have been impoſed upon, and then it was that this indictment for a conſpiracy was thought of; then it was that the indictment for a conſpiracy was preferred, and not till then; and not till after that was this proſecution thought of; this proſecution would never have been thought of, theſe men never would have thought of the tranſaction of Mr. Gillham, if they had not ſeen the iniquity of Mr. Gillham, in going on to inſtitute proſecutions againſt all of them, with a view of getting them into a ſcrape, and extort a large ſum of money from them.

Gentlemen, you have it in evidence, that this young nobleman has offered to get out of the ſcrape; but ſay they, you ſhall not get out of the ſcrape for leſs than five thouſand pounds. In conſequence of that did it not become all the parties to endeavour to defend themſelves? moſt ſurely it did; and in that defence they have inſtituted this enquiry againſt Mr. Gillham, and not as has been ſaid to you, for the ſake of getting rid of his teſtimony; that could not be the object of this indictment, for it will not have that effect, no ſuch thing; the effect of this proſecution is, that when you have found Mr. Gillham guilty he is to be delivered to the court, and they are to ſet a fine or impriſonment on him according to their diſcretion.

Gentlemen, my friend eſteems much better than it ought to be, what the motives of this proſecution are, but at the ſame time he overlooks all the motives that have led to the proſecution of thoſe gentlemen for a conſpiracy; ſo far as that obſervation goes it is true, that the indictment for a conſpiracy was preferred before the indictment which brings the preſent inquiry before you; then gentlemen it ſo happens, that although this indictment is preferred after the indictment for the conſpiracy, that this indictment comes on to be tried firſt, and it is moſt favourable for the ends of public juſtice, that it does, becauſe on that occaſion Mr. King nor that young nobleman could have told a ſyllable of their tale, and they have enemies come prepared to ſwear any thing; ſuch a crew of them never diſgraced a court.

Gentlemen, I now haſten to the nature of the evidence which has been given before you, and I think I need ſay but little on the teſtimony of that noble lord. Indeed I confeſs, and I confeſs with pleaſure, that that delicacy with which the learned advocate treated that young nobleman was moſt ſatisfactory;

tisfactory; he would not ſuppoſe, he could not bring his heart to ſuppoſe that there was any thing would warrant his coming here with the crime of perjury, but the way he accounted for his teſtimony was, that he was poſſibly miſtaken.

Gentlemen, there are two or three other things that grow out of my friend's obſervations that ſtill hang on the evidence in the cauſe too ſtrong to be reſiſted, and if my learned friend had had an opportunity of giving theſe things a bold ſatisfactory anſwer he would have done it; for no man is more capable than he is to do away the effect of evidence, if it is poſſible to do it away. But if you attend to ſome of the little aids that he was obliged to call in to his aſſiſtance, I am ſure that when your minds were called to draw any concluſion you could not help taking notice of them; I could not help being aſtoniſhed when my friend was aſking the queſtion about where Mr. Gillham could dine that day? and then he gave another ſuggeſtion which was the moſt extraordinary in the world, namely, what was put down in the banker's books of Mr. Gillham, ſays he, what has Mr. Gillham done with his money, you ſhall have the banker's book before you, and ſhall ſee that no additional ſum was paid to the banker this day; Gentlemen, I expected to ſee this proved before you, but no ſuch thing; and what if they were? what obſervations were theſe? for what purpoſe they were made, and how they came impreſſed on his mind I cannot eaſily account, unleſs it was the laſt ſhift to ſave a drowning man who would catch hold of every little ſtraw to ſave himſelf.

With reſpect therefore Gentlemen, to the teſtimony of the noble lord, I think I need ſay but little, you have obſerved it I am ſure, and my Lord attended to it, and the

impreſſion it has made upon your minds in the courſe of the diſcovery I have no doubt at all about, that there was neither in his teſtimony, nor in the manner of his giving it, nor any one circumſtance about it (about which I was extremely anxious) that did not appear to be highly creditable. He tells you poſitively that as to the eſtate in the Iſle of Thanet, no repreſentation from him has been ever given out to the world concerning it, in ſuch a way as to become an inducement for any man to part with money on that account; then if there is nothing that can attach the noble lord ſo as to induce him to make a repreſentation in this caſe, in God's name what is there to impute to him to draw him aſide from repreſenting the truth? and here, Gentlemen, let me advert a little to the laſt teſtimony you heard in this cauſe, I mean Mr. Houlditch, and what he has ſaid I will be bold to ſay at once is impoſſible to be true, it was groſs falſehood.

Gentlemen, Lord Falkland was before the Grand Jury in the month of September laſt, when this bill was found, he has given his teſtimony on oath, that oath was the foundation of the bill; Houlditch tells you, that within two months after Lord Falkland declared to him the very oppoſite of what he had declared before, and the very oppoſite of what he has ſaid now; It is impoſſible this could be true, what Houlditch has related. No man is either wicked or good in this world without ſome motive for it, and what motive could have operated on the noble lord's mind to have ſaid any thing of this ſort it is impoſſible to conceive; but long before this bill was found in September, this cauſe was a matter of agitation in court. It is impoſſible in the nature of things therefore with reſpect to Mr. Houlditch's teſtimony, as far as that goes, that it weighs down a feather againſt the teſtimony of the noble lord; I am ſure Gentlemen,

Gentlemen, you will not ſuffer it to weigh a feather in your mind. Then as to the parties of the tranſaction my learned friend with a liberality that becomes him, ſays that the noble lord is incapable of wilfull and corrupt perjury in the circumſtances he has related; but he ſays that it is probable he has made a miſtake; Gentlemen, it is impoſſible he ſhould make a miſtake, for the circumſtances to which he ſpeaks are all ſo likely, and the tranſactions borne up by every probability; if there had been any thing ſaid to you of the manner in which this Gentleman was paid any money for any other purpoſe, ſo as to have got him out of the ſcrape of the act of Parliament, that would have been another conſideration, but nothing of this ſort is done; there is nothing ſaid to contradict the fact charged in the indictment but this one, and which is moſt unworthy of belief, namely, that Mr. Gillham, who ſolicits for theſe Gentlemen to become the granters of theſe annuities, was to have ſomething, but he could not tell what, and for the benefit of ſociety one is happy there is an opportunity of tracing out the falſehood and detecting it; there is a poſſibility of dreſſing up falſehood to make it appear as truth, but in this caſe Mr. Gillham could not make up any ſort of ſtory on the face of truth, ſo that my friend ſhould tell you with any ſimilitude of it, how, when, and where he was paid, and therefore, he has abſtained from it; yet at the ſame time knowing what the circumſtances were that would be adduced againſt him, becauſe they have been diſcloſed before by the many affidavits that have been made in this cauſe, and they let it all reſt on the evidence given except one ſingle point, which is, that the witneſſes for the proſecution ſay that Lord Falkland was the man who ſaid he gave Gillham the money, they point all the evidence ſimply to negative that circumſtance;

ſtance; and that circumſtance alone, not conſidering how unimportant it would have been to the merits of this cauſe whether the money had been paid by one of the other of thoſe Gentlemen; but notwithſtanding ſo long ago my Lord Falkland diſcloſed to them that he ſaid he was the man that paid the money, yet they call no teſtimony to contradict it, but they call on you to ſay on ſuch teſtimony as he has given, which I ſhall bye and by eaſily prove to you that hardly ever was equalled in court: they call on you to ſay that he could not do it becauſe he was not out of the room. Now, Gentlemen, there is the teſtimony of Lord Falkland in contradiſtinction to this, and I will be bold to ſay that you cannot ſee a ſingle ground on which to impeach the teſtimony of that noble lord.

Now, Gentlemen, had this proſecution reſted on the teſtimony of my Lord Falkland, I confeſs that I ſhould have been perfectly contented; if on the firſt intimation of this buſineſs it had been told me that the caſe of the proſecution was alone to be ſupported by the teſtimony of that noble lord, I ſhould have nothing to fear from whatever evidence might have been called on the part of defendant.

But, Gentlemen, then comes in aid of my Lord Falkland's teſtimony, the teſtimony of Mr. King; and here, in animadverting on his evidence, my friend has introduced himſelf in two different characters; one as a commentator on Judaiſm, and the other as a commentator on Chriſtianity. I confeſs in the courſe of my life I never ſaw a gentleman who was ſo much beſet with every ſort of ingenuity, for, though it was moſt aſſuredly in order, on the part of Mr. Gibbs and the other Counſel, to aſk ſuch queſtions, yet it was done with an ingenuity moſt uncommon and vehement, and no man did I ever ſee in a Court of Juſtice endure

dure the whole force of that ingenuity in a more manly and able manner, and retort it ſo vigorouſly on them as Mr. King did.

Gentlemen, we who are advocates at the bar, know how frequent it is, according to the preſſure of the caſe and the circumſtances of the client to make very free with certain characters and claſſes of men, in regard to their profeſſions of faith. Nay, I hardly remember the caſe in which a man has been called upon to be a witneſs in which there has not been ſome inſinuation thrown out when it could be on his religion; ſo it is in the preſent inſtance, and the opportunity which my friend had of ſuppoſing there was a time when he was of a different perſuaſion was very ingeniouſly put, becauſe then he would have ſtood in a ſituation ſubject to all theſe remarks on that circumſtance; yet having deſerted that faith to what has he come, he has come to profeſs himſelf, in a frank and open manner that his embracing Chriſtianity was voluntary.

Gentlemen, whenever a man ſtands in that ſituation he generally ſuffers in ſome way or other, let his abilities be what they may, unleſs it happens to be that the cauſe itſelf, from the firſt attempt of the advocate to the laſt, ſhall be ſubject to the intelligence of Gentlemen like yourſelves.

Gentlemen, then my learned friend preſt the caſe to you with ſome warmth and vehemence, as if Mr. King ſtood here careleſs of either ſpeaking truth or falſehood; careleſs of calling the Almighty to witneſs the truth of what he has ſaid; his inference of this gentlemen was, that he was ſo perfectly careleſs of all religion, obedience, and veneration for the Deity, that he laughed at the aſſeveration he had made, and that he paid no regard to what he ſaid as under the ſanction of an oath; but Gentlemen, did the manner of

his

his giving his evidence, did his excellent ſenſe call for ſuch animadverſions as theſe? for ſo far as depends on his manner, and ſo far as depends on the ready avowal of what his faith was, and ſo far as the very expreſſions he uſed can go to convince a man, I think he looked upon the ſanction as ſolemn as a man can do, and he gave as honeſt, fair, and open a teſtimony of his regard for that oath, as ever a man did give: he anſwered every attack with vigour, every inſinuation with contempt. Hemmed on every ſide, he ſtill appeared ſuperior to his adverſaries, and he muſt always be recollected as one of the moſt able men that ever was interrogated in a Court of Juſtice.

Now then, Gentlemen, we come to examine his evidence, and examine what he ſays by the other preceding teſtimony of my Lord Falkland. If Mr. King had been to have told this ſtory alone, the obſervations of my learned friend, and the ingenuity of my learned friend, might have prevailed to a conſiderable extent; but the caſe ſtood proved by a teſtimony which Mr. King did not hear, for Mr. King was out of Court, and every iota ſtands confirmed by my Lord Falkland; and I muſt make one obſervation here; My Lord knows very well that maxim in the Civil Law, which will prevail here likewiſe, that though you ſhould look on the character of Mr. King, he having acknowledged himſelf to be a Money Broker, my friend King will forgive me for ſaying this, that he is not that ſort of man in which you would pay an implicit confidence as you would in another, he being as it were in a ſimilar buſineſs to that of Gillham. Yet ſtill he is a proper witneſs in this cauſe for the diſcovery of the offence. Therefore I ſay the very teſtimony of Mr. King receives no ſort of reprehenſion from the way of life in which he has been;

but,

but, Gentlemen, when you come to compare it with the teſtimony of my Lord Falkland, it is impoſſible that you can ſay there is any thing that can create a reaſonable doubt in your minds upon it.

Gentlemen, This is not all, the teſtimony of Mr. King, ſo far as this is an object of enquiry, is a proof whether there could or could not be an abatement of my Lord Falkland's teſtimony. The manner in which he took blame on himſelf, I will ſay that it certainly did him the higheſt honour; for from him we learn, that whatever might have been ſuggeſted concerning an eſtate of Lord Falkland's in the Iſle of Thanet, whatever ground Mr. Gillham might have had in his mind to complain, whatever reaſon Mr. Phillips might have to complain, he ſays that my Lord Falkland never gave him any authority ſo to repreſent as Gillham ſpoke of it; and in ſo doing he puts the character of Lord Falkland again in its proper point of view.

Gentlemen, One word more on the character of Lord Falkland, and then I have done. Let it not be ſuppoſed by you that this young Nobleman has got the money of Mr. Phillips, which he means to plunder him of. It has been proved to you that he wanted to get rid of the annuities altogether; only the ſum demanded was ſuch as he could not agree to the terms.

Gentlemen, I leave therefore the teſtimony of Lord Falkland, I leave the teſtimony of Mr. King, ſave only with this obſervation, that when Mr. Livingſton comes to be called, he confirms both of them in the material part of of the evidence. Here again look at the probability of the tranſaction; why was Mr. Gillham to commit himſelf to

any body elſe than the very parties concerned? Between Mr. King and Mr. Gillham there was a perfect underſtanding, therefore Mr. King need not be abſent at the time he received the money. But why that boy ſhould be there, why his clerk ſhould be there, there is no reaſon on earth. In addition to that improbability you have the poſitive teſtimony of Mr. King, who knows the diſpoſition of his houſe, and he tells yon they were not preſent, and then comes Livingſton to confirm this caſe again to you directly. And

Gentlemen, there we ſtop on the part of the proſecution. Let me aſk, is it proved or not? I ſay it is as moſt ſubſtantially proved as a caſe can be proved.

Then, Gentlemen, all that could be done was in ſome way or other to impeach the teſtimony of the witneſſes, as they knew they could not get rid of the tranſaction. My friend with much feeling and great ability, recommends to you the caſe and ſituation of his client: he has ſaid that your verdict of Guilty, will be the abſolute ruin of his client. May that be ſo, if that is the inevitable conſequence of juſtice being done, that ruin muſt follow.

Gentlemen, Let us examine the teſtimony which they produce to do away our evidence, and ſee what that will lead to, and I dare ſay, when you ſaw that young man, though a boy at that time, when you heard the manner in which he gave his anſwers, you muſt be ſomewhat alarmed in your mind. There could be nothing in the examination in chief that could alarm his mind, ſaving this, when he denied the money being given to him by Lord Falkland, I ſay, I dare ſay you felt a ſort of ſhock about your boſom,

and

and could not but help deſiring that every thing on that head ſhould be cleared up.

Gentlemen, Let me remark on this evidence, God knows whether my ſuſpicions are well founded or not, right or wrong, I expect that there is a nearer degree of relationſhip between Mr. Gillham and him than he chuſes to own; his mother lives in the houſe with Mr. Gillham, he looks upon Mr. Gillham's houſe as his home, and when I aſked him the other queſtion, when he had laſt ſeen any other man that he called his father beſides Mr. Gillham, and which he did not anſwer ſatisfactorily to the noble and learned Lord, and I let him go without giving an anſwer. Gentlemen, you ſaw he could not tell me when he ſaw his father, and if it is, as I ſuſpect it is, one cannot help lamenting that ſuch a youth ſhould be placed in ſuch an aukward ſituation, then ſtanding as he did with every poſſible bias about him. What are you to expect of that lad? Are you to expect him to recollect accurately circumſtances that happened three years ago, not at all likely to be rivetted in his memory. Gentlemen, have you any one reaſon why he ſhould be ſuppoſed or expected to ſpeak with accuracy to the circumſtances that paſſed? On the contrary, when a lad of that ſort affects to have a memory of the circumſtances to which he has ſpoken, the very thing itſelf carries improbability about it; beſides, when you conſider the eagerneſs with which he gives his teſtimony, and when it comes to be compared with the teſtimony of other men's, more honourable, I ſay what can become of that youth's teſtimony. It muſt fall to the ground.

Gentlemen, ſaving Mr. Houlditch, there is only one witneſs that I need ſay a word more about, and that is

Mr. O'Brien, who has been Mr. Gillham's clerk, acquainted with theſe tranſactions, who ſerved his clerkſhip to Mr. Gillham, and then ſet up for himſelf, and got into priſon; and now he is out of priſon, and in the hands of Mr. Gillham again. Is it poſſible that you are to expect truth from that quarter? I need ſay no more to Gentlemen of your underſtanding. A man of this ſort, who is Mr. Gillham's clerk, was with him at this tranſaction, affecting to ſpeak of the circumſtances that he has affected to ſpeak of. It cannot be that a teſtimony like that can admit of a moment's pauſe whether you ſhould receive it or no.

Gentlemen, Now I come to Mr. Houlditch, who ſtands in a ſituation, as he confeſſes himſelf, with a *qui tam* action brought againſt him, and I will be bold to ſay, in regard to his teſtimony, that it is as much poſſible for day to convert itſelf into night, as it is for Lord Falkland, to ſay to him what he has ſaid in Court; will any man in Court believe one of this execrable crew. Then I have done with all the teſtimony in this caſe. With reſpect to any obſervations that my learned friend has made on the manner of charging this indictment, you will hear from the learned Judge, in the moſt fair and impartial, and at the ſame time dignified way, the impreſſion it made on his mind, and I am ſure you will diſcharge your duty to the public by the verdict you give.

LORD

LORD KENON's Summing up to the JURY.

Gentlemen of the Jury,

The Law has placed the fair deductions of evidence in your combined wiſdom and diſcretion. The facts admitted in the caſe exhibit but a ſad picture of the times we live in. When one ſees three Gentlemen of the ſituation in life which theſe three Gentlemen are, one of them deſcended from one of the brighteſt characters that adorns the hiſtory of this country, another of them the heir apparent of a baronet of Great Britain, and the other of them a member of parliament arrived at the age of fifty; I ſay when one ſees theſe three men not much connected together in friendſhip, at leaſt two of them with the third, when one ſees theſe three men going in the year ninety-two, when money is not ſo valuable a commodity as it is now, and offering to grant annuities not for o. life but for three lives only for ſeven years value, it is certainly a lamentable picture of the times we live in. But Gentlemen, the ſituation of the parties will not affect you from examining the merits of the teſtimony they have given; it is no bar becauſe Lord Falkland is deſcended as I have mentioned to you from a noble and illuſtrious family from your ſcrutinizing into his evidence, and I hope he will remember for the future, that he has ſomething to preſerve beyond all fortune, namely, his honour; and that he will alſo remember in his future journey through life that evil communications may corrupt good manners.

Gentlemen, having ſaid this, let me ſtate to you what the queſtion is that you are to decide upon—a good deal has been ſaid to you reſpecting the ſituation of Mr. Phillips, but you

you will remember that his ſituation has nothing to do with this cauſe, it ſtands not connected with it in the moſt remote degree; if his caſe was now to be decided, one ſhould certainly feel for him; for it is impoſſible not to ſee that he has been at all events deluded, and that that perſon whoſe aſſiſtance he had purchaſed, had abandoned his intereſts, Gillham is the man that has deceived him. How can a man be ſaid to diſcharge his duty to his client who does not ſee of what materials the ſecurity is made, it is his bounden duty ſo to ſee to it; therefore, if there are any intereſts of Mr. Phillips's to be affected with your conſideration of this ſubject, it muſt be how Mr. Phillips is to be connected in the tranſaction, and how he came to give the ſecurity. Nor is it to be conſidered here how far Gillham is hurt by this conviction, how it affects the other cauſes, and what may be the ſequel and conſequences of it, all that is to be conſidered is only whether he is guilty or not.

Gentlemen, about ſeventeen years ago, at the inſtance of the noble lord who now ſtands at the head of the law in this country, the Legiſlature thought there were a claſs of men to whom the legiſlature ought to grant its protection, not becauſe they were not of age to protect themſelves, but who through their own diſſipation rendered themſelves eaſily a prey to others. It became the act of the Legiſlature; in ſhort every thing was done as far as human prudence could go to extend the protection to the people ſo imprudent; among other proviſions in that act of parliament, they have enacted, "That if the perſons concerned as broker, agent, or in any reſpect whatever is concerned in the purchaſing of annuities, take more than the limited ſum of 10s. in 100l. that that perſon ſhall be amenable to the juſtice of the country

country, by a proſecution inſtituted by any perſon whatever;" and it went further, it enacted, That no colluſion whatever between the perſon buying or ſelling ſhould withdraw from the character of a witneſs, in a queſtion in which the public in general were concerned. As far as the public were concerned in the proſecution of ſuch inquiry they therefore enacted, that the parties themſelves ſhould be admitted as witneſſes in the Cauſe. And on that act of parliament it is that this queſtion which we are now trying grounds itſelf, and which ſimply is, whether Mr. Gillham has taken a larger ſum than he ought to take for his ſhare in the tranſacting of this buſineſs.

Gentlemen, I will not go through the evidence that has been ſtated before you, it would be tireſome to me to do it, and to repeat it again wherein no good end or purpoſe can be anſwered by it, would be tedious to you to hear it. It is enough for me to ſay, that the facts have been ſworn in the detail by Lord Falkland, but you are not to believe it becauſe he has ſworn it, nor becauſe of the exalted ſituation in which he ſtands in this country; if you find any difference between one part of his evidence and the other, and if you find him confronted by any other perſon as high in credit as himſelf, you will give his teſtimony no more credit than you think it deſerves; it is not the number of witneſſes by which a cauſe is to be tried, but the manner in which thoſe witneſſes give their teſtimony.

Gentlemen, in ſupport of the teſtimony which he has given, Mr. King was called; you will judge whether the counſel on the croſs examination broke in on his teſtimony, they could not do that, but would have excited ridicule if they could; but you have lived too long in the world not to know,

know, that ridicule is not the teſt of truth, no grave man ever ſubſcribed to it; altho' ſcoffers inſtead of philoſophers have dared to obtrude that kind of nonſenſe on the world.—Mr. King's teſtimony was firm, clear, and manly.

Gentlemen, on Mr. Livingſton's teſtimony I would obſerve to you that he is advanced in years, and his recollection ſeemed not to ſerve; as far as it went it confirmed the teſtimony of thoſe other parties that went before him.

Gentlemen, in anſwer to this, two witneſſes are called by the defendant; you ſee the ſituation in which they ſtood, and I abſtain from ſaying much of them; the difference between theſe two witneſſes is very trifling, one of them did ſay that Mr. King chucked the boy under the chin, and the other ſaid it did not paſs. They ſtate Lord Falkland was never out of the room, and that the important parts of this buſineſs was tranſacted in a room where they repreſent themſelves to have been with Lord Falkland; I do not regard theſe mens' teſtimony much.

Gentlemen, That is the difference between theſe two witneſſes. On Mr. Houlditch's evidence I confeſs I do not mean to rely at all; ſuch evidence is always of the worſt ſort where a man acknowledges he is betraying what paſſed in confidence.

Gentlemen, Theſe are the whole of the witneſſes upon which you are to form your judgment; and when we ſee how the 322l. 10s. was made out, that 122l. 10s. was ſuppoſed to be a commiſſion, and 100l. for the deeds, and 100l. as a preſent, it is for you to ſay, whether my Lord Falkland, in his converſation, if ſuch converſation was held with Houlditch, in his eſtimating the different ſums,

might

might not think that the laſt ſum, which was given as the preſent, might be the ſum for the brokerage.

The queſtion, whether the whole of this ſum of money could be conſidered, as charged in the indictment, to be taken for brokerage, and procuring this ſum of 2,450l. was ſtarted in the beginning of the cauſe, to which I gave the beſt anſwer I could, and I am not now inclined to retract from it; it is for your conſideration, and I do think, if it is in the power of the party to take a very groſs ſum, and then afterwards to apply what part, or how much he pleaſes to brokerage, this proviſional clauſe had better be blotted out of the act of Parliament.

Gentlemen, There is another circumſtance alluded to, that part of this ſum was not put into the pocket of Mr. Gillham, but ſaid to be put into the pocket of King. But whether Mr. King conducted himſelf well or ill on the buſineſs is not the queſtion here. But the queſtion now to be determined is, Whether the money paid to Mr. Gillham does not conſtitute the offence charged in the indictment? In point of law I am clear it does. The other parts of the caſe cannot be entruſted in better hands than where the Conſtitution of the country has placed it. It is a queſtion peculiar for your judgment, and I am moſt confident that the verdict you pronounce will be the fair reſult of that contradictory evidence.

The Jury found the Defendant—GUILTY.

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